

EVALUATION DEPARTMENT



REPORT 11/2018



Photo: Ken Opprann

UNGP, Human Rights and Norwegian Development Cooperation Involving Business

ANNEX 1–23

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Annex 1: Terms of Reference

Evaluation of Human Rights and Business in Norwegian Development Cooperation

Are we able to know and show that our development aid contributes to protect and respect human rights? This is the underlying question of this evaluation. The UN Guiding Principles on Business and Human Rights¹ (UNGP) is the key global normative framework for ensuring protection of human rights in business. Thus, this evaluation will assess to which degree Norwegian development cooperation contribute to implement the UNGP.

Background and rationale

Human rights and business

The United Nations Guiding Principles on Business and Human Rights (UNGP), adopted in 2011, are framed by three concepts: protect, respect and remedy. The UNGP describe both how states should protect human rights vis-à-vis business enterprises, and how business enterprises should respect human rights. The UNGP also explain that both states and enterprises have a responsibility to ensure access to remedy in case of human rights violations.

States' duty to protect human rights constitutes the first bulk of the principles (principle 1-10). This involves that the state must respect and promote human rights, and set out clear expectations to all business enterprises to respect human rights throughout their operations.

Particularly relevant for this evaluation is the principle that "States should take additional steps to protect against human rights abuses by business enterprises that are owned or controlled by the State, or that receive substantial support and services from the State agencies (..) " (Principle 4). Development agencies and development finance institutions are specifically mentioned in the commentary to principle 4 (third paragraph). The commentary to principle 4 also explicitly recommend that "Given these risks, States should encourage and, where appropriate, require human rights due diligence by the agencies themselves and by those business enterprises or projects receiving their support."

Furthermore, the principles expound various aspects of the role of the state and lists; the state's obligation to ensure that human rights obligations are met when they contract with business enterprises to provide services, states should support business respect for human rights in conflict-affected areas, states should ensure policy coherence within various state agencies, and states should promote business respect for human rights as members of multilateral institutions that deal with business-related issues.

Business enterprises' responsibility to respect human rights (principles 11-24) entails that their operations should not "infringe on the human rights of others and should address adverse human rights impacts with which they are involved" (principle 11). The expectation covers both their own operations and their business relationships throughout their value chain.

Business enterprises need to have certain policies and processes in place to know and show that they respect human rights. Principles 16-24 elaborate further on how. Principle 17 on human rights due diligence (HRDD) states:

"In order to identify, prevent, mitigate and account for how they address their adverse human rights impacts, business enterprises should carry out human rights due diligence. The process should include assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed. (...)"

Hence, assessments of the quality of Human Rights Due Diligence (HRDD) processes will be central for this evaluation.

¹ UN Guiding Principles on Business and Human Rights, adopted in 2011.

Access to remedy is the third pillar of the UNGP, and it sets out the states' and business enterprises' responsibility to ensure that those affected have access to effective remedy. (Principles 25-31)

Norwegian policy and governing documents

Human rights are central in Norwegian development cooperation², and Norway has been in forefront in promoting the United Nation's Guiding Principles on business and human rights² (UNGPs) at the international policy level.

The Norwegian government expects that Norwegian business enterprises, respect human rights and act responsibly abroad. These expectations are formulated in various white papers, reports to the Storting, and action plans⁴. The expectations concern all businesses, but this evaluation is emphasizing the role of business and human rights in Norway's implementation of development policy, where expectations about promotion and respect of human rights are even clearer.

The current government has also emphasized the importance of the private sector in Norwegian development cooperation⁵. In the recent White Paper on development policy, it is emphasized that private sector is the driving force behind sustainable development and poverty reduction. This is corresponding to the emphasis on partnerships with business in the achievement of the Sustainable Development Goals (SDGs). Thus, support to strengthen opportunities for businesses, investments, and private sector development through multilateral channels are prioritized in Norwegian development cooperation. Norfund, a Development investment fund, is considered an important tool. Norfund has invested approximately 15 billion NOK in 700 enterprises in countries in Africa, Asia and Latin America (2015 figures) and the government has announced that Norfund will be receiving substantially increased funding next year⁶.

To summarize, it is well established that business and human rights is important in Norwegian development cooperation. However, we know little about *how* human rights are protected and respected - in practice- in Norwegian development aid involving business.

Purpose

The purpose of the evaluation is to document to what degree UNGP is implemented in Norwegian development cooperation. Implementation of the UNGPs involves both process and outcomes, whether there are adequate processes in place at state agencies and business actors, as well as to what extent human rights are promoted, protected and respected on the ground.

Another purpose is to produce and disseminate knowledge and recommendations on effective approaches to how Norwegian development aid involving business can promote, protect and respect human rights.

Evaluation Objectives

- ✓ Assess and compare the quality of HRDD across development cooperation, both in the assessment of state agencies, and in the assessment of projects in case countries. The evaluation team shall develop a HRDD quality assessment tool, in order to be able to assess and compare across the various agencies and projects. (See methods section about the tool)
- ✓ Assess to what degree current policies, strategies, steering documents, and implementing procedures within identified state agencies contributes to protect, respect and remedy human rights.
- ✓ Map how Norwegian development cooperation is involved with business in the two designated case countries, Tanzania and Mozambique.

² The topic of human rights and business is stipulated in various governing documents. A list of the most important are included at the end of this document. See also specifically the National action plan on business and human rights (2015)

³ Guiding Principles Business and Hr from www.ohchr.org.

⁴ Norwegian NAP on Business and Human Rights from www.regjeringen.no.

⁵ See for instance budget proposition or "Working together: Private sector development in Norwegian development cooperation" — Meld. St. 35 (2014 – 2015) Report to the Parliament Storting (white paper)

- ✓ Assess to what degree human rights are protected, respected and remedied in a selection of business related projects in two case countries.
- ✓ Compare findings from how UNGP is implemented in Norwegian development cooperation with selected relevant institutions and actors.
- ✓ Provide recommendations on how to improve implementation of the UNGP in Norwegian development cooperation.

Scope

The evaluation consists of two parts. One part of the evaluation will assess how state agencies are aligned with and contribute to implementation of UNGP, hence principles 1-10 are most central to this part of the evaluation. The evaluation will assess how MFA ensure alignment and implementation of UNGP in Norwegian development cooperation. Hence, the role of the Ministry of Foreign Affairs and the embassies are of particular interest.

This part will also include an assessment of policies, guidelines, and procedures in a selection of state agencies that govern and administer development aid funds and services to business. The state agencies to be included in the evaluations should at least comprise the Ministry of Foreign Affairs, the embassies, Norad, Norfund, Innovation Norway, Giek. The evaluators are expected to assess if other institutions should be included in addition. It is not expected that all embassies be included in the evaluation object, but that the embassies in the case countries are included and that general guidelines for the embassies are considered. Other embassies could be included for further analysis, but only as desk studies.

The second part of the evaluation includes case studies, and will analyze how these policies, guidelines and procedures have an effect on the ground, and study to what degree human rights are promoted, respected and remedied in practice in a selection of projects in two case countries. The two case countries selected are Tanzania and Mosambik. Both countries are central in Norwegian development cooperation, and a range of sectors and activities are involved in the development cooperation. Business is involved in development cooperation sectors such as energy, agriculture and banking in both countries, which are central in Norwegian development cooperation elsewhere.

The selection of projects to study closer in the case countries will be based on a mapping of how business is involved in development cooperation in each case country, in the period from 2013- present. Both planned, committed, on-going, and completed projects may be included in the selection.

Evaluations of human rights in development cooperation usually look at either targeted human rights projects or how human rights are integrated in development aid. This evaluation will not study effects of projects that specifically address promotion of human rights and business, but will focus on the integration of human rights in development cooperation involving business.

The evaluation will include development policy directed at strengthening the private sector, as well as development cooperation where businesses are partner, channel, or recipient in sectors such as extractive energy, hydropower, solar power, electrification, forest protection, agriculture, fishery, and banking sectors.

How Norway contribute to implementation of UNGP in the support through multilateral channels should also be included in the study, particularly in the case studies.

It is important that the recommendations be relevant to the context, implementable and realistic.

Evaluation Questions

The overarching question of this evaluation is to what extent UNGP is implemented in Norwegian development cooperation. The following evaluation questions shall guide the evaluation, and the evaluators are expected to elaborate these questions further.

Core elements to be included in the quality assessments tool are specified in the methodology section and should also be taken into consideration when evaluation questions are elaborated upon.

1. To what extent do the selected state agencies have policies, guidelines and procedures in place to be able to know and show that Norwegian development aid to private sector protects and respects human rights? To what extent do the MFA/the embassies set out clear expectations about human rights to business actors?
2. To what extent do the selected state agencies assess human rights risks and impacts of Norwegian development aid involving business enterprises?
 - a) How and how well are Human Rights Due Diligence procedures (HRDD) performed by the selected state agencies or business enterprises?
 - b) To what extent can the state agency rely on the HRDD done by business actors? Do the state agency have the capacity to assess business actors' HRDD?
3. To what degree do policies and assessments contribute to actual protection of human rights in business activities on the ground in the two designated case countries?
4. To what extent are grievance and remedy mechanisms in place? Are there sanctions if human rights violations have occurred?
5. How do practices in Norwegian development cooperation compare to best practice internationally?
6. What is conducive to and what hinders the alignment of UNGP in Norwegian development cooperation? What are the most important points for improvements?

Methodology

Human Rights Due Diligence Quality assessment

The purpose of the HRDD quality assessment tool is that the evaluation should be able to not only document whether HRDD is done, but also be able to score the quality of the due diligence.

The elements in the tool should build on the UNGP, and current international best practice of human rights due diligence⁴. However, existing frameworks or reporting tools is designed to enhance implementation of UNGP, but this tool should be designed in order to measure quality of the implementation.

The Quality assessment tool should include the following core elements as a minimum:

- ✓ Does the HRDD consider the relevant human rights risks and actions (including gender sensitive risks and actions) according to the context of operation?
- ✓ Does the due diligence consider risks arising both from the organization's own activities and from its business relationships throughout the value chain?
- ✓ How is the severity of human rights risks assessed (ie, is it done according to scale, scope and irremediability?)
- ✓ How is stakeholder input incorporated? – particularly insight into the perspectives of affected stakeholders
- ✓ How are human rights risks prioritized for attention and action (ie, is this based on risk to people, rather than risk to the project or business?)
- ✓ How does stakeholder engagement factor into the organization's efforts to track the effectiveness of its responses to identified risks? What other feedback loops exist for the organization to understand whether its efforts are working in practice (and note the relevance of grievance mechanisms in this regard)?
- ✓ Do key staff have the capacity/expertise to identify risks and take appropriate action on them?
- ✓ Are there incentives (tight timelines, key performance indicators etc) that could work against staff prioritizing human rights risks for attention?

⁴ «UN Guiding Principles Reporting Framework» (Shift/Mazar 2015) should be one of the existing best practice instruments that informs the selection of elements in the assessment tool. Reporting Framework from www.ungpreporting.org.

How to score the various elements should also be clearly defined and well-reasoned. The scoring of the elements could be done according to categories such as inadequate-adequate-very good.

Analysis of the findings in the quality assessment tool should be based on descriptive analysis, where values for subcategories of the elements is presented, and that the analysis allows for heterogeneity.

A draft quality assessment tool should be proposed in the inception report and agreed upon with the Evaluation Department.

Document review and interviews

In order to assess the state agencies, it is expected that methods and strategies for document reviews and interviews with relevant stakeholders be elaborated upon in the inception report.

Case study

The case countries in this evaluation are not meant to represent the situation in other countries, but rather a method to illustrate how human rights are assessed, protected and respected at project level in development countries.

In the case countries, the evaluation team is expected to map how the Norwegian development policy is involved with private sector, and based on that mapping select around ten projects for an in-depth study of the human rights situation. The case country study should include document reviews, and interviews with relevant actors such as project organizers, employers, employees, subcontractors, local government officials and NGOs.

Comparison

For the first part of the evaluation (concerning the state agencies), relevant comparison with a selection of other donors or development financing institutions is desirable. This is to be defined and agreed upon with the Evaluation Department during the inception phase.

In the case country study, the team could include an assessment of the human rights policies and practices of other Norwegian business actors operating in the same contexts (country, sector etc).

Triangulation

Triangulation will be an integral part of the methodological approach, to assess the quality of the evidence collected and to increase the accuracy and robustness of findings. The evaluation team is to be explicit about how they intend to apply triangulation, and to describe in the evaluation report the type of triangulation and methods employed.

Ethics

The evaluation shall be carried out according to the OECD DAC's evaluation quality standard and criteria as well as recognized academic and ethical principles.

Ethical standards and procedures are particularly important for the work in the case countries, where some human rights issues may be sensitive.

The evaluation process itself should be conflict sensitive. The evaluation process should show sensitivity and respect to all stakeholders. The evaluation shall be undertaken with integrity and honesty and ensure inclusiveness of views. The rights, dignity and welfare of participants in the evaluation should be protected. Anonymity and confidentiality of individual informants should be protected. An introductory statement to the evaluation report may explain what measures were or were not taken to ensure no harm/conflict sensitivity of the evaluation itself, as well as the security of the interviewees.

Data availability

Data collection is the responsibility of the evaluation team. Access to archives in MFA and Norad will be facilitated by MFA/Norad. Statistics are available on www.norad.no. Validation and feedback workshops shall be held in the case countries before departure, involving relevant stakeholders.

Standards

All parts of the evaluation shall adhere to recognised evaluation principles, the OECD DAC's quality standards for development evaluation, and guided by recognised methods for measuring human rights⁸⁵. Similarly, the evaluation is to adhere to relevant guidelines from the Evaluation department (See Annex). The evaluation should be utilization-focused.

Budget and Deliverables

The project is budgeted with an input of 35 consultant weeks including data collection in two case countries.

The deliverables consist of the following outputs:

- ✓ Proposed quality assessment tool, delivered as annex to the Inception Report
- ✓ Draft Inception report not exceeding 20 pages excluding annexes. After circulation among the stakeholder, the Evaluation department will provide feedback.
- ✓ Final inception report to be approved by the Evaluation department.
- ✓ Validation workshop with the embassy and stakeholders towards the end of the field work in case countries.
- ✓ Draft report. All underlying data, such as the quality assessments and transcripts shall be made available to the Evaluation department upon request.
- ✓ Workshop in Oslo to discuss the draft, including recommendations with stakeholders
- ✓ Final report not exceeding 50 pages excluding summary and annexes.
- ✓ Presentation seminar in Oslo
- ✓ 1-2 policy briefs not exceeding two pages.

List of relevant Norwegian Policy Reports

The topic of human rights and business is stipulated in the following governing documents (among others):

Corporate social responsibility in a global economy — Report No. 10 (2008 – 2009) to the Parliament *Storting* (white paper):

<https://www.regjeringen.no/en/dokumenter/report-no.-10-to-the-storting-2008-2009/id542966/>

“Working together: Private sector development in Norwegian development cooperation” — Meld. St. 35 (2014 – 2015) Report to the Storting (white paper) https://www.regjeringen.no/en/dokumenter/meld.-st.-35-20142015/id2423253/?q=utvikling*

“Opportunities for All: Human Rights in Norway’s Foreign Policy and Development Cooperation” — Meld. St. 10 (2014–2015) Report to the Parliament *Storting* (white paper): <https://www.regjeringen.no/en/dokumenter/meld.-st.-10-2014-2015/id2345623/>

“Diverse and value-creating ownership” Meld. st. 27 (2013-2014) Report to the Storting (white paper): <https://www.regjeringen.no/en/dokumenter/meld.-st.-27-2013-2014/id763968/>

National action plan on business and human rights

(2015): https://www.regjeringen.no/globalassets/departementene/ud/vedlegg/mr/business_hr_b.pdf

Meld. St. 24 (2016-2017) «Felles ansvar for felles fremtid: Bærekraftsmålene og norsk utviklingspolitikk» (currently not available in English): <https://www.regjeringen.no/no/dokumenter/meld.-st.-24-20162017/id2547573/>

Prop. 1 S (2016–2017), FOR BUDSJETTÅRET 2017, Utgiftskapitler: 100–172 Inntektskapitler: 3100 (The Ministry of foreign Affairs budget proposition for the fiscal year 2017) Not available in English: <https://www.regjeringen.no/no/dokumenter/prop.-1-s-ud-20162017/id2513642/>

Annex 2: Evaluation questions & data collection methods

As explained in Chapter 2, the evaluation builds on two complementary components: a systems analysis of the dispositions concerning UNGP, human rights and business in Norwegian development cooperation; and a series of ten case studies of Norwegian cooperation projects involving businesses in two countries: Tanzania and Mozambique. The systems analysis provides the top-down perspective of the objectives, policies and procedures of the institutions managing Norwegian aid when it comes to UNGP, human rights and business. The case studies are meant to evaluate the actual implementation and results of human rights and business policies and provide a feedback from the ground to the analysis of systems.

In order to define the objectives and methodology of these two components, the evaluation team derived from each of the evaluation questions a list of sub-questions concerning each of the evaluated entities. The team then determined the normative criteria (essentially derived from UNGP), the data sources and the data collection methods applicable to these sub-questions.

The table below summarises these elements.

Evaluation questions	Sub-questions investigated by the team	Criteria	Systems analysis / Case study	Data sources and collection methods
1) To what extent do the selected state agencies have policies, guidelines and procedures in place to be able to know and show that Norwegian development aid to private sector protects and respects human rights? To what extent do	For the MFA: Where and how is the State's responsibility to protect human rights set out in the governing documents and policies? How is the responsibility for the State's responsibility to protect human rights allocated and how do key staff cooperate? How do the mandates for Norad, Innovation Norway, GieK and Norfund ensure that they protect and respect human rights, and how is oversight over the agencies' fulfilment of their mandates organised? How does the MFA ensure that the agencies are aware of the implication of the human rights expectations, e.g. through training, information and support? How does the MFA ensure consistent implementation of human rights norms across the agencies and their activities?	UNGP 1-4	Systems analysis	Government policy documents and guidelines Interviews

Evaluation questions	Sub-questions investigated by the team	Criteria	Systems analysis / Case study	Data sources and collection methods
MFA/embassies set out clear expectations about human rights to business actors?	How does the MFA ensure that the agencies communicate their handling of human rights impact to stakeholders and the general public, particularly in case of significant human rights risks? How does the MFA work with other foreign governments or local actors in helping to identify solutions in cases of business actors within its development cooperation encounter human rights challenges?			
	How does the MFA exercise influence on multilateral institutions to consider human rights?	UNGP 10	Systems analysis	Interviews
	How does the Norwegian National Action Plan compare internationally?	Degree of elaboration Range of implementation tools and initiatives Monitoring and evaluation tools	Systems analysis	UN Working Group on Business and Human Rights National Plans of comparator countries (Sweden and Netherlands) Analyses by third parties such as the International Corporate Accountability Roundtable and the Business and Human Rights Resource Centre Interviews
	For the embassies: Where and how is the State's duty to protect human rights set out in the governing documents and policies? How is the State's responsibility to protect human rights fulfilled in practice and how do key staff cooperate? How are expectations about the responsibility to respect human rights framed and communicated to relevant business actors? For instance, is human rights policy commitment and HRDD required or expected? How do the embassies ensure that business actors are aware of the implication of the human rights expectations, e.g. through training, information and support?	UNGP 1-4 UNGP 2, 3(c-d) and 7	Systems analysis Systems analysis	Government policies and guidelines Interviews Policies and expectations documents Dissemination and communication material

Evaluation questions	Sub-questions investigated by the team	Criteria	Systems analysis / Case study	Data sources and collection methods
	How do the embassies work with other foreign governments or local actors in helping to identify solutions in cases of business actors within its development cooperation encounter human rights challenges?	UNGP 10	Systems analysis	Interviews
	How do the embassies address UNGP in their support and facilitation of Norwegian business interests in the country?			
	How do the embassies exercise influence on multilateral institutions to consider human rights?			
	How is information about human rights risks and the performance of Norwegian agencies and relevant business actors communicated back to the MFA, Norad and Innovation Norway?		Systems analysis	Interviews
	For Norad:			
	Where and how is the State's responsibility to protect human rights set out in the governing documents and policies?	UNGP 1-4	Systems analysis	Government and agency policies and guidelines Interviews
	How is the State's responsibility to protect human rights fulfilled in practice and how do key staff cooperate?			
	How does Norad ensure that the business actors are aware of the implication of the human rights expectations, e.g. through training, information and support?	UNGP 2, 3(c-d) and 7	Systems analysis	Interviews
	How does Norad work with other foreign governments or local actors in helping to identify solutions in cases of business actors within its development cooperation encounter human rights challenges?	UNGP 10		
	How does Norad exercise influence on multilateral institutions to consider human rights?		Systems analysis	Interviews
	For each agency:			
	Are the agency's policies, guidelines and/or procedures sufficiently developed for the agency to know and show that Norwegian development aid to private sector protects and respects human rights?	UNGP 4, 7 and 16	Systems analysis	Policy documents and guidelines Interviews
	What are the concrete gaps between the existing policies, guidance and/or procedures and the requirements following from UNGP?			

Evaluation questions	Sub-questions investigated by the team	Criteria	Systems analysis / Case study	Data sources and collection methods
	<p>How do practices of Norwegian development cooperation agencies compare internationally?</p> <p>Did the businesses and other stakeholders involved in case studies have a clear understanding of the expectations of Norwegian development cooperation with respect to human rights?</p> <p>Did their views on these expectations coincide with those of Norwegian entities?</p>		<p>Systems analysis</p> <p>Case study</p>	<p>Practices of development cooperation agencies in comparator countries (Sweden, Netherlands and the UK)</p> <p>Interviews</p>
<p>2) To what extent do the selected state agencies assess human rights risks and impacts of Norwegian development aid involving business enterprises?</p> <p>a) How and how well are Human Rights Due Diligence procedures (HRDD) performed by the selected state agencies or business enterprises?</p>	<p>For each agency:</p> <p>How are human rights risks and impacts identified, assessed and prioritized according to the context of operation and value chain?</p> <p>How has the HRDD been implemented within the organisation, in its projects and value chain?</p> <p>To what extent are stakeholders identified and involved in the HRDD process, and how is feedback from stakeholders integrated in the HRDD?</p> <p>How and to what extent does the agency identify changes in the risks and impacts over time, and to what extent are changes implemented in HRDD and acted upon?</p> <p>Does the agency have the capacity to perform tasks in the HRDD procedures?</p> <p>How does the agency track its performance to ensure that negative human rights impacts are being prevented?</p> <p>How does the agency report on its performance in protecting human rights to actually or potentially impacted persons and other stakeholders, particularly when operations or the operating context pose risks of severe impacts?</p> <p>How does the agency work with other governments or local actors in helping to identify solutions in cases where business actors encounter human rights challenges within the context of development cooperation?</p>	<p>UNGP 4 and 17 – 19</p> <p>UNGP 4 and 17 – 19</p>	<p>Systems analysis</p> <p>Systems analysis</p>	<p>Agencies at general (systems) level:</p> <ul style="list-style-type: none"> • Policies and guidelines • Interviews <p>Agencies at general (systems) level:</p> <ul style="list-style-type: none"> • Policies and guidelines • Interviews

Evaluation questions	Sub-questions investigated by the team	Criteria	Systems analysis / Case study	Data sources and collection methods
	<p>Does the agency require, expect or encourage companies to have policy commitment on human rights and HRDD in alignment with UNGP?</p> <p>To what extent does the HRDD performed by the agency in each of the case studies confirm or contradict the findings of the systems analysis on the above questions?</p> <p>Which potential issues, if any, have been identified in the case studies?</p> <p>To what extent were these issues captured by the HRDD process?</p> <p>Have preventing and mitigating actions, if any, had a verifiable impact?</p> <p>Are there examples of best practices?</p>	<p>UNGP 4 and 20 – 21</p> <p>UNGP 1 and 25 – 31</p>	Case study	<p>Project documentation:</p> <ul style="list-style-type: none"> • Contracts and grant letters • Tracking reports • Reports from inspections, on-site visits and audits <p>Interviews with businesses and other stakeholders (CSOs, trade unions, partner country government agencies, international organisations, etc.)</p> <p>External reviews and analyses</p>
	<p>For each business enterprise involved in a case study:</p> <p>How are human rights risks and impacts identified, assessed and prioritized according to the context of operation and value chain?</p> <p>How has the HRDD been implemented within the organisation, in its projects and value chain?</p> <p>To what extent are stakeholders identified and involved in the HRDD process, and how is feedback from stakeholders integrated in the HRDD?</p> <p>How and to what extent does the business identify changes in the risks and impacts over time, and to what extent are changes implemented in HRDD and acted upon?</p> <p>Does the business have the capacity to perform tasks in the HRDD procedures?</p>	UNGP 4 and 17 – 19	Case study	<p>Project documentation</p> <p>Interviews with business management</p> <p>Interviews with other stakeholders</p> <p>Visit to the premises (in some cases)</p> <p>KPMG IDD tools⁶</p>

⁶ KPMG's Integrity Due Diligence (IDD) tools are used to search global risk and compliance databases (e.g. human rights abuses and sanction exposure).

Evaluation questions	Sub-questions investigated by the team	Criteria	Systems analysis / Case study	Data sources and collection methods
	<p>How does the business track its performance to ensure that negative human rights impacts are being prevented?</p> <p>How does the business report on its performance in protecting human rights to actually or potentially impacted persons and other stakeholders, particularly when the operations or the operating context pose risks of severe human rights impacts?</p> <p>How do the business' procedures and human rights performance compare to other businesses operating in the same sector and region (considering overall human rights trends in the country)?</p>		Case study	<p>Context analysis</p> <p>Stakeholder focus group discussions</p> <p>Interviews with other businesses</p>
b) To what extent can the state agency rely on the HRDD done by business actors? Do the state agency have the capacity to assess business actors' HRDD?	<p>For each agency:</p> <p>Does the agency have sufficient capacity to undertake proper controls and act on the findings?</p> <p>Does the agency secure its right to control and assess the HRDD performed by its business partners? To what extent are such controls operated and what are the findings?</p> <p>Is the quality of the HRDD performed by businesses involved in case studies in line with UNGP so that it may be relied on by the agency?</p> <p>If not, has the agency identified the inadequacies? Has it asked the business for improvements, performed its own HRDD or taken any other measure to address the situation?</p>	UNGP 4 and 20 – 21	<p>Systems analysis</p> <p>Case study</p>	<p>Interviews</p> <p>Examples of inspection, on-site visit and audit reports</p> <p>Project documentation</p> <p>Interviews</p>
3) To what extent are grievance and remedy mechanisms in place? Are there sanctions if human rights violations have occurred?	<p>For the MFA and all agencies:</p> <p>Does the State or the agencies themselves, alone or in cooperation with others, provide for access to remedy through grievance and remedy mechanisms, as required by UNGP Pillar III, especially Principles 26 and 27, as well as Principle 21 and 25?</p> <p>For each agency:</p> <p>Are businesses required or expected to have a system?</p>	UNGP 1 and 25 – 31	<p>Systems analysis</p> <p>Systems analysis</p>	<p>Contracts and grants letters</p> <p>Grievance mechanism websites</p> <p>Documentation on reported grievance cases and response</p> <p>Grievance mechanism websites</p>

Evaluation questions	Sub-questions investigated by the team	Criteria	Systems analysis / Case study	Data sources and collection methods
	<p>Are there any known cases of reported grievances for which actions or remedies have followed?</p> <p>For each business enterprise involved in a case study:</p> <p>Do business partners have grievance mechanisms?</p> <p>Are there any known cases of reported grievances for which actions or remedies have followed?</p>		Case study	<p>Interviews</p> <p>Documentation on reported grievance cases and response</p> <p>Grievance mechanism websites</p>

Annex 3: Interview list

DATE	PERSONS INTERVIEWED	PLACE/LOCATION
Tanzania		
04/12-2017	Arne Follerås: <i>Focal point for HR and the EAC</i> Jon Heikki Aas: <i>Focal point for climate change, environment, agriculture Inc. SAGCOT, education</i> Johanne Bjørnflaten Walthinsen: <i>Business promotion and PSD (including TradeMark East Africa)</i>	Royal Norwegian Embassy, Dar es Salaam
	Focus group discussion with CSO and TU representatives: Joyce and Fellista: <i>Legal and Human Rights Centre</i> Winston: <i>Women Legal Aid Centre</i> Hassan: <i>Media Council of Tanzania</i> Adela: <i>Oxfam Tanzania</i> Kasia: <i>Wildlife Africa</i> Thomas: <i>Tameco (mines energy construction trade union)</i>	LHRC, Dar es Salaam
05/12-2017	Graham Anderson: <i>Managing Director Kilombero Plantation Ltd.</i>	Agrica, Dar es Salaam
06/2-2017	Jon Heikki Aas: <i>Focal point for climate change, environment, agriculture Inc. SAGCOT, education</i>	Royal Norwegian Embassy, Dar es Salaam
	Sarah Lynch: <i>Senior Advisor</i>	WWF Tanzania, Dar es Salaam
07/12-2017	Saidi Moshi Amiri: <i>Ag. Director of Corporate Affairs</i> Godfrey X. Kilolo: <i>Legal Affairs Manager</i>	Tanzania Investment Centre, Dar es Salaam
	Bahame Tom Mukirya Nyanduga: <i>Chairman</i>	Commission for Human Rights and Good Governance, Dar es Salaam
	Geoffrey Kirenga: <i>CEO</i> John Nakei: <i>Environment and Social Specialist</i> Maria Ijumba: <i>Head of Cluster and Partnership</i> Kadji Diop: <i>Programme Officer</i>	SAGCOT Centre, Dar es Salaam
	Mary Ndaro: <i>Senior Advisor</i>	CARE Tanzania, Dar es Salaam
08/12-2017	Arne Follerås: <i>Focal point for HR and the EAC</i> Johanne Bjørnflaten Walthinsen: <i>Business promotion and PSD (including TradeMark East Africa)</i> Britt Hilde Kjølås: <i>Counsellor Aid Administration</i>	Royal Norwegian Embassy, Dar es Salaam
	Alex Ngata: <i>Director of occupational health and safety</i>	OSHA, Dar es Salaam
	Jon Heikki Aas: <i>Focal point for climate change, environment, agriculture Inc. SAGCOT, education</i>	Royal Norwegian Embassy, Dar es Salaam
	Nigel Whittaker: <i>Managing Director</i>	Songas, Dar es Salaam

	Rasmus Pedersen: <i>Researcher land rights</i>	DIIS, Dar es Salaam
11/12-2017	Evansi Kente: <i>Pastoralist farmer</i> Edda Kibki: <i>Farmer</i> Christina Masasi: <i>Farmer</i> Daudy Sanga: <i>Farmer</i> Ditrick Motto: <i>Farmer</i> Cletus Kifyoga: <i>School teacher and coordinator</i>	Iringa
	Rajkumar Shinde: <i>Managing Director</i>	Darsh industries, Iringa
13/12-2017	William Olotu: <i>Programme Officer</i>	Yara, Dar es Salaam
	Sara Simons: <i>Programme Advisor</i>	World Bank, Dar es Salaam
Mozambique		
22/01-2018	Pedro Pinto: <i>African Century Partner</i>	African Century Real Estates Ltd. Project Office, Maputo
	Anne Lene Dale: <i>Ambassador</i> Tom Edvard Eriksen: <i>Deputy, Development Cooperation Focal Point</i> Carlos Rafa Mate: <i>Private Sector Development Advisor</i>	Royal Norwegian Embassy, Maputo
	Stefan Falk: <i>Minister Counsellor</i>	The Swedish Embassy, Maputo
	Luis Bitone: <i>President for the Commission</i>	National Human Rights Commission, Maputo
23/01-2018	Chishamiso Mawoyo: <i>Head of Regional Office / Investment Manager</i>	Norfund, Maputo
	Maria da Cunha: <i>Safeguards Coordinator</i> Zayra Romo: <i>Senior Energy Specialist</i>	World Bank Group, Maputo
	Celso Sitoi: <i>HR Manager</i> Paulo Khushaldas: <i>Credit Manager</i>	Banco Terra, Maputo
	Evangelina Libombo: <i>Head of HR</i>	Socrema, Maputo
	Frank Phiri: <i>Development Programme Manager</i>	CSO: Norwegian People's Aid, Maputo
24/01-2018	Ruy Ricardo: <i>CESOM Manager</i>	CESOM, Maputo
	Fátima Mimbire: <i>Advisor</i>	CSO: CIP, Maputo
	Camilo Nhancala: <i>Executive Director</i>	CSO: Kuwuka, Maputo
	Carina Roca: <i>Vice President</i>	CSO: The Bar Association, Maputo
25/01-2018	Tomas Viera Mario: <i>Executive Director</i>	CSO: Sekelekani, Maputo
	Anne Lene Dale: <i>Ambassador</i> Tom Edvard Eriksen: <i>Deputy, Development Cooperation Focal Point</i> Guttorm Udjus: <i>Business Promotion Advisor</i>	Royal Norwegian Embassy, Maputo

26/1-2018	Clarisse Barbosa: <i>Project Officer</i>	Tilapia project, Embassy Maputo
	Paula Santos: <i>Environmental Consultant</i>	Impacto, Maputo
	Yarina Martins: <i>Environmental Consultant</i>	
	Human Rights Directorate: <i>Head of the Directorate</i>	The Ministry of Justice, Maputo
27/01-2018	Morten Høyum: <i>Mozambique Fisheries Consultant</i> Halare: <i>CEPAQ</i>	Frost Innovation and CEPAQ, Maputo
29/1-2018	8 trainees	Tilapia - Papá Pesca, Hókwe
	Pieter de Klerk and Joe Mpoto: <i>Managing Director and Deputy</i>	Tilapia - Papá Pesca, Hókwe
	Thomas Olof Berg: <i>Head of Training component</i>	Tilapia - Papá Pesca, Hókwe
	Bercina Mpoto, Emuna Frechaud, Elisa Oamosse: <i>HR and administrative staff</i>	Tilapia - Papá Pesca, Hókwe
30/1-2018	Management and engineer representatives: <i>Hydraulic Authorities</i>	Chókwè – HICEP, Hókwe
	Chico Pita: <i>Advisor</i>	CSO: Kulima, Hókwe
	Gielmina Armando Jorge: <i>Director</i>	Hókwe local authorities, Hókwe
	Castigo Samson Obisse: <i>Community Leader</i>	Hókwe
	Pieter de Klerk and Joe Mpoto: <i>Managing Director and Deputy</i>	Tilapia - Papá Pesca, Hókwe
31/1-2018	Luis Muchanga: <i>Executive Coordinator</i>	CSO: UNAC, Maputo
	Joao Catine: <i>Project Manager</i>	EDM, Maputo
	Angelo Magaia: <i>Deputy Project Manager</i>	
	Edina Culolo-Kozma: <i>Child Protection Specialist</i> Neidi de Carvalho: <i>Private Partnership Officer</i> Irina Mattos: <i>Communication Team</i> Helder Machango: <i>Focal Point for Human Rights Issues</i>	UNICEF, Maputo
01/02-2018	Tonje Flatmark Sødal: <i>Project officer</i>	World Bank, Maputo
	Norwegian Embassy: <i>Archive search</i>	Maputo
	CSO: Panel discussion: <i>AgDevCo, Justica Ambiental, ADPP, UN Women, Sekelekani, Bar Association – HR Commission</i>	CSO panel discussion, Maputo
Oslo		
29/12-2017	Ola Nafstad: <i>Executive Vice President</i>	Norfund, Oslo

10/01-2018	<p>Start-up meeting Norfund:</p> <p>Kjell Roland: <i>Managing Director</i></p> <p>Ola Nafstad: <i>Executive Vice President</i></p> <p>Petter Vilsted: <i>Sustainability Advisor ESG</i></p> <p>Kristin Imafidon: <i>Senior Advisor Development Impact,</i></p> <p>Claus Fossom: <i>Investment Director</i></p> <p>Tim Lund: <i>Senior ESG Specialist</i></p> <p>Lasse Nergaard: <i>Investment Director</i></p> <p>Elin Ersdal: <i>Investment Director</i></p>	Norfund, Oslo
11/01-2018	<p>Lena Hasle: <i>Senior Advisor</i></p> <p>Janis Bjørn Kanavin: <i>Senior Advisor</i></p>	MFA, Section for human rights and democracy, Section for business relations and private sector development, Oslo
11/01-2018	Eli Bleie Munkelien: <i>Director</i>	Innovation Norway, Oslo
12/01-2018	<p>ACRE project team:</p> <p>Tim Lund: <i>Senior ESG Specialist</i></p> <p>Lasse Nergaard: <i>Investment Director</i></p> <p>Ola Nafstad: <i>Executive Vice President</i></p>	Norfund, Oslo
12/01-2018	Anita Fausa: <i>Advisor</i>	Norad, Section for private sector development: Oslo
12/01-2018	<p>Claus Fossom: <i>Investment Director</i></p> <p>Tim Lund: <i>Senior ESG Specialist</i></p>	Norfund – Yara, Oslo
17/01-2018	<p>Arise B.V.: Socremo and Banco Terra:</p> <p>Erik Sandersen: <i>Executive Vice President,</i></p> <p>Haakon Schram Stokke: <i>Investment Director</i></p> <p>Karin Thorsson: <i>ESG Advisor</i></p> <p>Ola Nafstad: <i>Executive Vice President</i></p> <p>Deepak Malik: <i>CEO Arise B.V.</i></p>	Norfund, Oslo and Arise SA
17/01-2018	<p>Kristin Imafidon: <i>Senior Advisor Development Impact</i></p> <p>Ola Nafstad: <i>Executive Vice President</i></p> <p>Kjell Roland: <i>Managing Director</i></p> <p>Petter Vilsted: <i>Sustainability Advisor ESG</i></p>	Norfund, Oslo
22/01-2018	<p>Paul Wade: <i>Director PSD</i></p> <p>Anita Fausa: <i>Advisor</i></p>	Norad, Section for private sector development: Oslo
25/01-2018	Turid Johansen Arnegaard: <i>Policy Director</i>	Norad, Section for Human Rights, Governance and Fragility, Oslo
25/01-2018	<p>Sigrid Brynestad: <i>Senior Advisor Sustainability, Legal Section</i></p> <p>Nikolai Østråt Owe: <i>Senior Advisor, Research Section</i></p> <p>Kamil Zabielski: <i>Head of Sustainability Team, Legal Section</i></p>	GIEK, Oslo

06/02-2018	Lena Hasle: <i>Senior Advisor</i> Geir Sjøberg: <i>Policy Director</i>	MFA, Section for human rights and democracy, Oslo
12/02-2018	Mocuba Solar project: Petter Vilsted: <i>Sustainability Advisor ESG</i> Damien Berlioz: <i>Investment Manager</i> Kristin Imafidon: <i>Senior Advisor Development Impact</i>	Norfund, Oslo
13/02-2018	Phone meeting: Roberto Berardo: <i>Project manager Mocuba (SA)</i> Isil Onan: <i>Senior Sustainability Advisor (HQ Oslo)</i>	Scatec Solar – Cape Town and Oslo
13/02-2018	Phone meeting: Reinaart Pretorius: <i>Head of International Programmes</i> Anne Mugaas: <i>Senior Advisor</i>	Norges Vel, Oslo
15/02-2018	Phone meeting: Mark Eckstein: <i>Director Environmental and Social Responsibility</i>	CDC UK
16/02-2018	Phone meeting: Beatrijs van Manen: <i>Sustainability officer</i>	FMO - Netherlands Development Finance Company
9/03-2018	Janis Bjørn Kanavin: <i>Senior Advisor</i>	MFA, Section for business relations and private sector development, Oslo
13/03-2018	Phone meeting: Ørnulf Strøm: <i>Assistant Director</i>	Norad, Department for climate, energy, environment and research, Oslo
13/03-2018	Phone meeting: Arne Follerås: <i>Focal point for HR and the EAC</i> Johanne Bjørnflaten Walthinsen: <i>Business promotion and PSD (including TradeMark East Africa)</i>	Norwegian Embassy in Dar es Salaam
14/03-2018	Åse Bjerke: <i>MFA responsible officer for Norfund</i>	MFA, Section for business relations and private sector development, Oslo

Annex 4: About UNGP

1. Introduction

Human rights are the rights inherent to all human beings, whatever their nationality, place of residence, sex, national or ethnic origin, colour, religion, language or other status. All human beings are equally entitled to human rights without discrimination. These rights are all interrelated, interdependent and indivisible.⁷

Human rights is a broad concept and encompasses rights found in the International Bill of Rights,⁸ as well as in more specialised human rights treaties and regional human rights conventions. By way of introduction, the following list provides an overview of rights regarded universal human rights:

1. Right to life	19. Right to freedom of opinion, information and expression
2. Right to liberty and security	20. Right to freedom of assembly
3. Right not to be subjected to slavery, servitude or forced labour	21. Right to freedom of association
4. Right not to be subjected to torture, cruel, inhuman and/or degrading treatment or punishment	22. Right to participate in public life
5. Right to recognition as a person before the law	23. Right to social security, including social insurance
6. Right to equality before the law, equal protection of the law, non-discrimination	24. Right to work
7. Right to freedom from war propaganda, and freedom from incitement to racial, religious or national hatred	25. Right to enjoy just and favourable conditions of work
8. Right to access to effective remedies	26. Right to form and join trade unions and the right to strike
9. Right to a fair trial	27. Right to an adequate standard of living
10. Right to be free from retroactive criminal law	28. Right to health
11. Right to privacy	29. Right to education
12. Right to freedom of movement	30. Right to take part in cultural life, benefit from scientific progress, material and moral rights of authors and inventors
13. Right to seek asylum from persecution in other countries	31. Right of self-determination
14. Right to have a nationality	32. Right of detained persons to humane treatment
15. Right of protection for the child	33. Right not to be subjected to imprisonment for inability to fulfill a contract
16. Right to marry and form a family	34. Right of aliens due process when facing expulsion
17. Right to own property	35. Rights of minorities
18. Right to freedom of thought, conscience and religion	

Both states and businesses may have impacts on peoples human rights. Such impacts can be positive or they can be negative. States and businesses have, however, different roles and responsibilities.

States have legal obligations under international law to respect, protect and fulfil human rights and fundamental freedoms according to the International Bill of Rights and other universal and regional treaties, as indicated above. The states' duty to protect human rights also requires that they protect people within their jurisdiction against human rights abuses from third parties, including business enterprises. At the outset, this do not extend to an obligation to regulate the extraterritorial activities of companies domiciled in their jurisdiction. States are not, however, prevented from doing so as long as they do not interfere with the sovereignty of other states.

Businesses can have a great impact on the enjoyment of human rights both among their own employees and other persons affected by their business operations, products or services. The impact will often be positive, by providing employment, contributing to development of new products, infrastructure etc., but it may also be negative. The activity of business enterprises may have adverse impacts on the whole spectrum of human rights. The risk of having a adverse impact on peoples' human rights will, however, vary between jurisdictions and local environments in which the business operates. The nature of the business and the relevant market may also determine which human rights that are most at risk and the severity of the risks.

⁷ Cited from "What are human rights" at the home page of The Office of the UN High Commissioner for Human Rights:

⁸ I.e. the universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, coupled with the eight ILO core conventions as set out in the Declaration on Fundamental Principles and Rights at Work.

The UN Guiding Principles on Business and Human Rights (“UNGP”) is a set of guidelines that apply to all States and all business enterprises. The responsibility of businesses to respect human rights refers to the internationally recognized human rights, as explained in UNGP Principle 12. This is understood, as a minimum, as those human rights expressed in the International Bill of Rights⁹ and in the principles concerning fundamental rights set out in the ILO’s Declaration on Fundamental Principles and Rights at Work¹⁰. This covers, broadly speaking, the concrete human rights listed in the overview above in this chapter. In addition additional standards developed by the United Nations may need to be considered when relevant for impacts on specific groups or populations that require particular attention (e.g. children, women, indigenous peoples etc.). In situations of armed conflict, enterprises should respect the standards of international humanitarian law.

The objective of the Guiding Principles is to enhance the standards and practices with regard to business and human rights so as to achieve tangible results for affected individuals and communities, and thereby also contributing to a socially sustainable globalization.¹¹ The UNGP were endorsed by the UN Human Rights Council in 2011.

At the same time, the human rights chapter of the OECD Guidelines for Multinational Enterprises was amended in order to mirror the corporate responsibility spelled out in UNGP. The OECD Guidelines also provide for a unique implementation mechanism, the National Contact Points (NCP) which, among other things, are domestic grievance mechanisms for alleged breaches of the Guidelines, including the human rights chapter. The NCPs may thus also be seen, in practice, as grievance mechanisms for the UNGP.

UNGP formulates a program for the state’s duty to protect human rights as well as principles for the corporate responsibility to respect human rights. UNGP is today regarded as the global standard for the corporate responsibility to respect human rights. The implementation of the UNGP is supported by national action plans (NAP) in some countries. Norway’s NAP was adopted by the Government in 2015.¹² The purpose of the NAP is explained by the Government in section 1.4 of the NAP:

“Norwegian foreign and development policy is based on promoting democracy, human rights, growth economies that create jobs, a proactive trade policy, sustainable development and an international legal order. We are also intensifying our economic diplomacy efforts by focusing more strongly on trade, energy and climate, and, in our development policy, on private sector development. The internationalisation of Norwegian business makes a crucial contribution to Norway’s competitiveness, and Norwegian companies are creating thousands of jobs worldwide.

The Government wishes to provide strong support, based on Norwegian values, to Norwegian companies abroad, and is stepping up the efforts to assist companies in new and demanding markets. As part of our support, we are strengthening guidance, dialogue and practical cooperation on CSR.

In this context, ‘corporate social responsibility’ refers to the responsibility companies are expected to assume for people, society and the environment that are affected by their activities. The Government’s expectations are confined to companies’ business operations. The measures will make it easier for companies to avoid the risk of contributing to human rights violations and to follow the UN Guiding Principles.”

2. The main elements of the UNGP

The UNGP are built on three pillars:

- I. The state’s duty to protect human rights (Principles 1-10).
- II. The corporate responsibility to respect human rights (Principles 11-24).
- III. Access to remedy (Principles 25-31).

⁹ The Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

¹⁰ Adopted in 1998, the Declaration commits Member States to respect and promote principles and rights in four categories, whether or not they have ratified the relevant conventions. These categories are: freedom of association and the effective recognition of the right to collective bargaining, the elimination of forced or compulsory labour, the abolition of child labour and the elimination of discrimination in respect of employment and occupation. These are fundamental rights found in the eight ILO core conventions.

¹¹ See UNGP, p. 1, General Principles:

¹² “Næringsliv og menneskerettigheter” from www.regjeringen.no

UNGP Principle 1 requires that the State should take appropriate steps to protect against human rights abuse within its territory by e.g. business enterprises, through effective policies, legislation, regulations and adjudication. States are not *per se* responsible for human rights abuses caused by private actors, but such abuse can be attributed to a State if an organisation acts on the State's behalf or if the State fails to take appropriate steps to prevent, investigate, punish or redress private actors' abuse.

UNGP Principle 2 states that States should "set out clearly the expectation that all business enterprises domiciled in their jurisdiction respect human rights throughout their operations". Thus, the home state should, as a policy, clearly set out the expectation that businesses respect human rights abroad. This is especially so, when the State itself is involved in or supports those businesses. States should provide effective guidance to business enterprises on how to respect human rights throughout their operations, see UNGP Principle 3(c). Among other things, States should provide businesses with guidance on expected outcomes and help share best practices. It should advise on appropriate methods on how to respect human rights, including human rights due diligence.

Moreover, States should exercise adequate oversight to meet their human rights obligations when they contract with, or legislate for, business enterprises to provide services that may impact human rights of others, see UNGP Principle 5. Relevant contracts and legislation should thus clarify the State's expectations that these enterprises respect human rights. States should also promote respect for human rights by business enterprises with which they conduct commercial transactions, see UNGP Principle 6, and ensure human rights policy coherence throughout governmental departments, agencies and other State-based institutions, see UNGP Principle 8. Enhanced duties to support business respect for human rights in conflict-affected areas follow from UNGP Principle 7.

The State's duty to protect human rights also apply at the international level. According to UNGP Principle 10, States should when acting in international institutions, such as international trade, financial and development institutions, promote business respect for human rights and, where requested, help states meet their duty to protect against human rights abuse by business enterprises.

UNGP Principle 4 deals with the state-business nexus. This Principle reads:

"States should take additional steps to protect against human rights abuses by business enterprises that are owned or controlled by the State, or that receive substantial support and services from State agencies such as export credit agencies and official investment insurance or guarantee agencies, including, where appropriate, by requiring human rights due diligence."

In the Commentary to Principle 4 it is explained that:

"(a) range of agencies linked formally or informally to the State may provide support and service to business activities. These include export credit agencies, official investment insurance or guarantee agencies, development agencies and development finance institutions. Where these agencies do not explicitly consider the actual and potential adverse impacts on human rights of beneficiary enterprises, they put themselves at risk – in reputational, financial, political and potentially legal term – for supporting any such harm, and they may add to the human rights challenge faced by the recipient State."

Given these risks, States should encourage and, where appropriate, require human rights due diligence by the agencies themselves and by those business enterprises or projects receiving their support. A requirement for human rights due diligence is most likely to be appropriate where the nature of business operations or operating contexts pose significant risk to human rights."

The State's duties to protect human rights that are found in Pillar I, typically require that the State regulates, sets out expectations and mandates, supports agencies and businesses, and provides oversight of the specific agencies. When State agencies are providing substantial support or services to business enterprises, UNGP Principle 4 requires additional measures. In cases where State agencies provide much needed support to businesses by providing trade finance and advisory services aimed at expanding export opportunities, they assume the role of gatekeepers.¹³ As gatekeepers, States can use their leverage to promote a race to the top by setting out clearly the expectations that businesses respect human rights as a precondition for receiving government support. The UN Working Group on the issue of human rights and transnational corporations and other businesses recommends that:

¹³ See Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises, A/HCR/38/48, dated 2 May 2018, paragraph 3. In this report the Working Group "unpacks UNGP Principle 4, see paragraph 6 of the report.

“States should require businesses to demonstrate an awareness of and commitment to the Guiding Principles as a prerequisite for receiving State support and benefits relating to trade and export promotion. States should condition participation trade missions, eligibility for trade advocacy and generalized export assistance on such commitments.”¹⁴

The Working Group also recommends States to examine how to use withdrawal of trade support more actively in the event that businesses have been found to have caused or contributed or been directly linked to adverse human rights impacts. This would create incentives for companies to respect human rights and engage in human rights due diligence and legitimate remediation processes.¹⁵ These recommendations must be applicable to the agencies involved in Norwegian development cooperation. In order to fulfil the requirement in UNGP Principle 4 to protect against human rights abuses by businesses that receive substantial support or services from Norwegian state agencies, the agency should put in place appropriate policies and procedures. This is necessary to secure that consideration for human rights impacts are provided in a systematic and consistent manner.¹⁶

Further, as stated in UNGP Principle 4, the State should also encourage and, where appropriate, require that agencies linked to the State should perform human rights due diligence (HRDD) when they provide support and service to business activities. This is relevant for all entities covered by this evaluation. Moreover, state owned, and state controlled, business enterprises, like GIEK and Norfund, will also be required to align with the Principles in Pillar II, since these principles apply to all enterprises regardless of their size, sector, operational context, *ownership and structure*, see UNGP Principle 14. The Principles related to the right to remedy (Pillar III) applies both to the State and to businesses.

UNGP has a global reach, and thus Pillars II and III also apply to the foreign businesses that receive support and services through Norwegian development aid, typically *the client* of the Norwegian agency. Accordingly, the foreign *client* of the Norwegian agency has its own obligations according to the UNGP. The human rights due diligence undertaken by *the client* may or may not be helpful to the Norwegian agency in its fulfilment of its own obligations to respect human rights in the project. On the one hand, unnecessary duplication of human rights due diligence work should be avoided, but, on the other hand, *the client's* due diligence does not exempt the Norwegian agency from its own obligations. It will be for each entity in the value chain to judge the quality and reliability of due diligence undertaken by others in the value chain and whether supplementary action is needed.¹⁷

3. The scope of human rights due diligence

As explained above in chapter 1 of this Annex, the corporate responsibility to respect human rights refers to a broad set of human rights. The list of concrete rights that is found in chapter 1 above will be helpful as a basis for the due diligence.¹⁸

A business enterprise may be related to adverse human rights impacts in three ways:

- ✓ The enterprise may *cause* adverse human rights impacts through its own activities.
- ✓ The enterprise may *contribute to* adverse human rights impacts
- ✓ The enterprise's operations, products or services may *be directly linked to* adverse human rights impacts through a business relationship.

A Norwegian agency will seldom itself *cause* negative human rights impacts, but may under certain circumstances be seen to *contribute to* negative human rights impacts. In any event, a “direct link” exists to *clients*, also for a minority investor.¹⁹ Further, a “direct link” also exists beyond the first tier of the value chain, and under the UNGP, risks and impacts throughout the supply-/value-chain, as well as risks and

¹⁴ Op cit, paragraph 99.

¹⁵ Op cit, paragraph 101 and 102.

¹⁶ See Kløcker, Rasmus and Sandra Alter, *Business and Human Rights in Development Cooperation – has Sweden incorporated the UN Guiding Principles?* Rapport 2015:08 till Expertgruppen för biståndsanalys (EBA), s. 31.

¹⁷ See OECD (2017), Responsible business conduct for institutional investors: Key considerations for due diligence under the OECD Guidelines for Multinational Enterprises, p. 17.

¹⁸ Regard must be had, however, both to the fact that additional standards should also be considered, depending on the circumstances, and that each right may be developed in more detail.

¹⁹ See OECD (2017), Responsible business conduct for institutional investors: Key considerations for due diligence under the OECD Guidelines for Multinational Enterprises, p. 13.

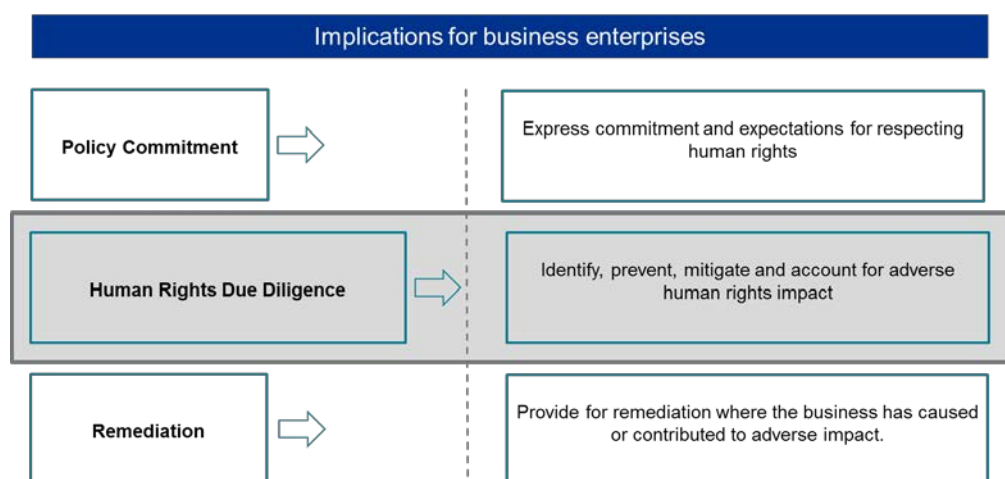
impacts attributable to other business partners (to which there is a UNGP-relevant “direct link”), must be addressed through the agency’s human rights due diligence.

Whether there exists a “business relationship” between the Norwegian agency and the business that receives the support or service, depends on the role of the agency. Such a link exists between an agency that provides financing, products or services, and the business enterprises, e.g. the client, that receives or is otherwise linked to the financing, products or services of the agency. Other roles that the State agency may have under UNGP pillar I do not create a “business relationship”.

The corporate responsibility to respect human rights entails that business enterprises should avoid causing or contributing to adverse human rights impacts, and that they seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services, even if they have not contributed to those impacts. As indicated above, this entails a responsibility to identify, assess and address adverse human rights impacts in the whole value-/supply-chain, including those caused by other business partners.

In order to meet these requirements, organisations, including state agencies, need to:

1. adopt and embed a Human Rights Policy Commitment, see UNGP Principle 16.
2. undertake (HRDD) to identify, prevent, mitigate and account for how they address their adverse human rights impacts, see UNGP Principles 17-21, and
3. provide a remedy where the organisation has caused or contributed to adverse human rights impact, see UNGP Principle 22.



The Human Rights Policy should be approved and supported at the most senior level of the organisation. Embedding the company’s Human Rights Policy in the organisation and clear allocation of responsibilities are essential for the business to effectively carry out HRDD and act based on the outcome of this process. This will normally be based on an action plan for the prevention and mitigation of human rights risks and impacts that the agency or business actor causes, contributes to or is directly linked to. An action plan – which should be properly supported by, and based on, the Human Rights Policy and the HRDD – may include allocating responsibilities, disseminating information, training, undertaking inspections, requiring changes, providing incentives, bringing concrete support to business partners in the supply-/value-chain, participating in remediation processes, setting up grievance mechanisms, etc.

Identification of potential and actual adverse human rights impacts in which the business may be involved is the basis for the HRDD. It is key to understand the specific impacts on specific people, given the specific context of operations. Whilst traditional risk assessments evaluate risks *to the organization*, the HRDD focuses on risks *to others*, *i.e. to rights holders that are affected organisation's activities*. The organisation/business should integrate human rights to the existing operating context, and ensure that the correct perspectives are integrated into existing processes. Also, the human rights situation is normally

dynamic and a HRDD can thus not be a “one off”, but must be revisited and repeated throughout the life of the business operation or business project.

It may be useful for the organisations to approach their assessment of possible negative human rights impact on different levels and combine these:

- ✓ Geographical context (country level)
- ✓ Sector
- ✓ The organisation’s actual operations, products and services, as well as its business relationships

Common practice shows that the identification and assessment of human rights risks often *start* with a geographical analysis: i.e. to assess country risks and the risks of the operations in that country. This will reduce the risk of overseeing potential risks relating to the local political and cultural context. For instance, the risk of child labour and discrimination based on caste is considerable in India, whilst excessive workhours and the lack of ability to unionize are issues in China. In some cases, it may, however, make more sense to start by addressing a specific commodity chain, business partner or other elements of the business and/or its relationships that immediately stands out as particularly challenging. Anyway, after any initial mapping of general risks, the risk assessment must continue to understand the risks that are specific to the actual sector and the business itself, addressing the activities that it is carrying out and the business relationship it has, i.e. undertaking appropriate assessments of the concrete operations, value-/supply-chains and other business partners to identify potential and actual adverse human rights impacts. Effective, two-way and good faith stakeholder dialogue is an important tool at all stages of the HRDD process.

The Commentary to UNGP Principle 17 reads:

“Human rights due diligence can be included within broader enterprise risk-management systems, provided that it goes beyond simply identifying and managing material risks to the company itself, to include risks to rights-holders.

[...]

Where business enterprises have large numbers of entities in their value chains it may be unreasonably difficult to conduct due diligence for adverse human rights impacts across them all. If so, business enterprises should identify general areas where the risk of adverse human rights impacts are most significant, whether due to certain suppliers’ or clients’ operating context, the particular operations, products or services involved, or other relevant considerations, and prioritize these for human rights due diligence.”

Thus, a part of the HRDD process is to assess and prioritize human rights risks throughout the value-/supply-chain. The core criteria to be used are *scale*, *scope* and *remediably*. This means that the business enterprise must assess how serious the impact is, how widespread it is, as well as how likely it is to occur, and whether the impact can be made good or not. The business enterprise should start by addressing the most salient risks first.

Potential and actual risks that are identified must be addressed. The actions that are expected depends on the relationship that the enterprise has to the risks and/or adverse impacts. The enterprise must take actions that are capable of effectively stopping and preventing impacts that it *causes* or *contributes to*, and, further, take action in order to seek to prevent and mitigate potential and actual impacts that is *directly linked to* its operations, products or services through a business relationship. The enterprise must build and use its leverage over entities in its supply chain and other business relationships, to be able to employ as much influence as possible in its mitigating efforts. In relation to *clients*, training to enhance the capacity to manage human rights risks will often be an adequate means to mitigate risks, but also more concrete support to avoid or remedy impacts can be necessary.

Further, the enterprises must track the effectiveness of their responses to human rights risks and adverse impacts that are identified, and account for how it addresses these impacts. Enterprises should report formally when their operations or operating context pose risks of severe human rights impacts.

Where businesses identify that they have *caused* or *contributed to* adverse impacts, they should provide for or cooperate in their remediation through legitimate processes.

This being said, it is important to underscore that the means through which a business enterprise meets its responsibility to respect human rights will be proportionate to, among other factors, its size and operational

context, see UNGP Principle 14. Small and medium-sized enterprises may have less capacity as well as more informal processes and management structures than large companies, so their respective policies and processes will take different forms. But some small and medium-sized enterprises can have severe human rights impacts, which will require corresponding measures regardless of their size. This is particularly important to take into account when the Norwegian agency shall judge the quality and reliability of due diligence undertaken by the client and others in the value chain and whether supplementary action is needed.

Further, the due diligence must be appropriate to domestic legal systems. The due diligence should not place enterprises in situations where its requirements conflicts with local law. In case of conflict, the enterprise should seek to honour the UNGP to the fullest extent that does not violate local law.

Also, enterprises may face practical and legal limitations on how they can influence or affect business relationships to cease, prevent or mitigate adverse human rights impacts, or to remedy them. Lack of market power may severely limit a small business' leverage over its business partners. In such cases, it may be appropriate to continue the relationship while mitigating efforts are pursued and its leverage is sought to be increased, e.g. through cooperation with other businesses or organisations. In more severe cases, the relationship may be suspended while mitigating efforts are being employed, or, as a last resort, the business relationship may be ceased.

4. UNGP and its relationship to other standards, especially the IFC Performance Standards

Other international initiatives and recognized principles may contribute to fulfil similar purposes as the UNGP does. For financial institutions, traditional ESG due diligence processes, however, may pose some challenges when assessing and managing human rights risks. The ESG factors are often more developed in assessing and addressing environmental issues than social issues.²⁰ Further, they may not use international human rights standards as a reference point, and therefore not adequately identify the severity of an impact nor what is required as a remedy under those standards. Finally, ESG factors have traditionally been more focussed on risks to the organisation itself, rather than on risks and impacts to rights-holders affected by the organisation's operations, products or services.

The IFC Performance Standards provide well developed guidance and standards on substantial human rights issues that are also core issues under the UNGP.²¹ The IFC Performance Standards, however, are focussing on the *client's* performance and does not itself set standards for the financial institution's own policies, procedures, human rights due diligence or whether the financial institution should offer remediation for adverse human rights impacts that it has caused or contributed to. Further, the IFC Performance Standards have not developed a strong focus on human rights impacts in the supply-/value-chains or impacts that are caused by other business partners, i.e. human rights risks and impacts that are *directly linked* to the operations, products or services of the financial institutions through a business relationship. Thus, it must be expected that the UNGP requires a stronger focus on human rights risks and impacts beyond the first tier in the value-/supply-chain than the IFC Performance Standards do. Moreover, the IFC Performance Standards focus on impacts highlighted in Performance Standard 2-7, and does not take the International Bill of Rights as its starting point. This may entail a narrower or weaker emphasis on some potential human rights than UNGP does.²² Lastly, the IFC Performance Standards do not address contextual risks and prioritization of on the basis of severity of harm.

In the light of this, it is important to appreciate that IFC itself has adopted its own Policy on Environmental and Social Sustainability.²³ IFC's own commitments as well as IFC's own roles and responsibilities are spelled out in this policy – and not in the Performance Standards (which spells out expectations to *clients*). In its Policy on Environmental and Social Sustainability the IFC includes a clear human rights commitment, see paragraph 12, which reads:

“IFC recognizes the responsibility of business to respect human rights, independently of the state duties to respect, protect, and fulfil human rights. This responsibility means to avoid infringing on

²⁰ CDC UK's Toolkit for fund Managers, Briefing note on human rights.

²¹ The IFC Performance Standards articulates the Corporation's strategic commitment to sustainable development, and is an integral part of IFC's approach to risk management. The Framework includes Performance Standards on Environmental and Social Sustainability.

²² It is true, that upon careful analysis, the IFC Performance Standards may be interpreted as covering most human rights. Some true gaps exist, however, e.g. the right to privacy is probably not covered by the IFC Performance Standards. The main point here is first and foremost that the differences in methodology and focus may lead to a narrower and weaker emphasis on human rights than envisaged by the UNGP.

²³ Environmental and Social Sustainability Policy from www.ifc.org

the human rights of others and to address adverse human rights impacts business may cause or contribute to. Meeting this responsibility also means creating access to an effective grievance mechanism that can facilitate early indication of, and prompt remediation of various project-related grievances. IFC's Performance Standards support this responsibility of the private sector. Each of the Performance Standards has elements related to human rights dimensions that businesses may face in the course of their operations. Consistent with this responsibility, IFC undertakes due diligence of the level and quality of the risks and impacts identification process carried out by its clients against the requirements of the Performance Standards, informed by country, sector, and sponsor knowledge."

Seen from a UNGP point of view, this policy is a necessary supplement to the IFC Performance Standards.²⁴ However, as can be seen from the text, even this human rights commitment has its limitations. The policy does not include the responsibility to *"seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships"*, see UNGP 13. Significantly, also financial institutions, as far as UNGP is concerned, have a responsibility beyond the first tier in the value chain. Thus, the said limitation of the reach of the IFC's policy amounts to a partly non-fulfilment of its responsibilities under the UNGP.²⁵

UK Export Finance, which bases its work on the so-called Common Approaches,²⁶ confirms in its Note on Human Rights and Social Risks and Impacts,²⁷ that

"In its preamble, the Common Approaches recognises that OECD Member Countries and non-Members adhering to the Common Approaches have existing obligations to protect human rights and fundamental freedoms, and that business enterprises have the responsibility to respect human rights, as outlined in the 'Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework (UNGPs).' Furthermore, in order to achieve the objectives of the Common Approaches, Member Countries should encourage protection and respect for human rights, "particularly in situations where the potential impacts from projects or existing operations pose risks to human rights".

Further, a leading DFI like CDC UK has also adopted its own Code of Responsible Investing which spells out its own roles and responsibilities,²⁸ and which supplements the IFC Performance Standards. The Code makes explicit reference to the UNGP. The same is true for FMO's Position Statement on Human Rights.²⁹ It seems that both these DFI's increasingly are focusing on human rights in their own due diligence of projects and that such risks are addressed in a "social performance action plan" based on the agency's own ESG due diligence, as well as in internal training and training offered to clients when necessary. Whether the language of human rights/UNGP or the IFC Performance Standards is used, may, however, vary. For both DFI's only the IFC Performance Standards, finds its way into legal documents with clients.

²⁴ The Working Group on the issue of human rights and transnational corporations and other business enterprises, recommends that *"States and export credit agencies should ensure that their practices are aligned with the Guiding Principles, not just the IFC Performance Standards"*, see Op cit, paragraph 103.

²⁵ Reference is made to the discussion between the Thun Group of Banks, on the one side, and the UN Working Group on Business and Human Rights and Professor John Ruggie, on the other, and the clarification provided by the two latter: www.ohchr.org and business-humanrights.org

²⁶ OECD Recommendations (Common Approaches) from www.oecd.org.

²⁷ Note on Human Rights and Social Risks and Impacts from www.gov.uk/

²⁸ "Responsible investing" from www.cdcgroup.com

²⁹

Annex 5: Human Rights Due Diligence Quality Assessment Tool (HRDD Tool)

The Human Rights Due Diligence Quality Assessment Tool (HRDD Tool) has been designed to assess compliance with the UNGP Principles through all stages of the project cycle, in accordance with the Terms of Reference. The tool is designed to allow for a detailed assessment that provides comparable scores for the key aspects of a comprehensive HRDD process.

The HRDD Tool may be used both to assess the quality of the HRDD performed by the organisation under review, as well as of the quality of the HRDD performed by its business relationships, including business partners and actors in the value chains. It is not, however, designed to assess how the State fulfils its duty to protect human rights in line with Pillar I of UNGP.

The HRDD Quality Assessment Tool is developed with a view to reflect the relevant requirements of UNGP's operational principles in its Pillar II, to which UNGP Principle 4 also makes a reference. It is based on the commentaries to UNGP as well as other known resources, like UNGP Reporting Framework and the OECD Guidelines for Responsible Business Conduct and detailed due diligence guidance documents developed by the OECD.

HRDD Tool is organised around the five core elements of the Human Rights Due Diligence process – i.e. the process enterprises carry out to identify, prevent, mitigate and account for how they address actual and potential adverse impacts in their own organisations, their supply chain and other business relationships. The HRDD Tool assesses the following five core elements:

1. Identify and assess
2. Prevent and mitigate
3. Track performance
4. Communicate
5. Remediation

In order to assess the extent to which organisations have a HRDD process in line with the UNGP, the core elements have been broken down into sub-elements. These are to be scored according to the following 4-point grade:

For each part a 4-point grade is applied:

3 points: *Fully aligned* - All elements are of high quality and in place

2 points: *Partially aligned* - All elements in place, but quality varies and opportunities for improvements

1 point: *Not adequate* – Only few elements are in place and / or the quality is poor

0 points: *Nothing* – None of the elements are in place

No score: *Not possible to assess* – for various reasons, it is not possible to assign a score or the question is not applicable. Where this is indicated, the question is not included when calculating the average score for the area

Specific questions are provided to assist in the assessment (see section 1. Identify and assess below). For each scoring, an explanation of the basis for the score should be provided. A total score is automatically calculated for each element.

General issues and considerations pertaining to all elements of the HRDD Tool

This manual should be supplemented by the presentation of UNGP in Annex 4. The responsibility of businesses to respect human rights refers to a broad range of internationally recognised human rights, see

UNGP Principle 12. This is explained in more detail in chapter 1 in Annex 4. A list of concrete human rights that may need to be considered is also found there. A clear understanding of the relevant international human rights standards is a necessary basis for the due diligence on the enterprises' fulfilment of their duty to respect human rights.

Further, there are some general issues and considerations that pertain to all elements of an HRDD. These issues and considerations are explained here and not included explicitly in the concrete questions below. The reviewers must therefore include these issues and considerations in their work with each of the elements of the HRDD Tool.

As a general point it is important that the organisation under review provides the reviewers with concrete documentation for how the HRDD is implemented, i.e. documentation that shows that the duties are understood and that concrete actions are taken.

The HRDD should deal with risks of adverse human rights impacts for others, not risks to the organisation itself or the business project at issue. The severity of impacts should be judged by their scale, scope and irremediable character. In complex and long value chains it may be unreasonably difficult to conduct HRDD across them all. If, so, the HRDD should identify general areas where the risk of adverse human rights impacts is most significant, and prioritise these for HRDD.

The UNGP Principle 14 explains that the scale and complexity of the responsibility of businesses to respect human rights may vary according to its size, sector, operational sector, ownership and structure – and with the severity of the enterprise's human rights impacts. HRDD is thus a procedure that will vary in accordance with the size of the business enterprise, the risk of severe human rights impacts, and the nature and context of its operations, see UNGP Principle 17 (b). The parameters for HRDD is explained in UNGP Principle 17 and the comments related to this Principle, and these should guide the review.

The justification for providing the score should be explained in the comments column, e.g. in case the scoring is done in context of low or insignificant risks to human rights, or the HRDD requirements are limited due to the size, sector etc. of the organisation.

The HRDD should be risk-based, i.e. the measures and actions taken should be commensurate with the severity and likelihood of the actual and potential adverse human rights impacts. Thus, if small or medium-sized businesses have severe human rights impacts, this will require corresponding measures regardless of size.

In light of this, is it important that the reviewers have a good understanding of the actual and potential human rights risks involved in the operating context of the business under review, including severity of the risks and concrete challenges that apply to the operations of the business under review and its supply chains and business relationships. A pivotal issue is to assess how the business under review responds – through its HRDD – to the potential and actual human rights impacts that it is causing or contributing to, or that its operations, goods or services are directly linked to by their business relationships. An overarching requirement is that the HRDD is preventative in the actual context in which the business is operating.

HRDD is not a "one-off" exercise, but should be initiated as early as possible in the development of a new activity, and be ongoing throughout the life of the business operation or investment. This applies to all elements of the HRDD. The HRDD should be designed to discover and address changes in the human rights situations, since these are dynamic. Assessments of human rights impacts should therefore be undertaken at regular intervals, see UNGP Principle 18 regarding how to gauge human rights risks.

The organisation should draw on relevant internal and external expertise in preparing and conducting its HRDD.

Meaningful stakeholder consultations with potentially affected groups should be a central part of all elements of HRDD. It must always be ascertained that consulted parties are true representatives of the affected groups and represent the latter's views in an appropriate manner. Moreover, proper stakeholder engagement requires some active support from the organisation, e.g. to ensure that affected stakeholders are well informed, are consulted at a time when it is meaningful to provide input and that representatives

have the funds to travel if necessary. Information about this must be considered when a score is given to stakeholder consultation procedures.

Note that HRDD will often start with a rather broad desktop analysis based on available information, and followed up by more in-depth evaluation, including on-site inspections when necessary, of the more severe risks and potential impacts. If the adverse impact or risk is already well known, however, the HRDD should move directly to addressing such impacts and/or risks. This general feature of the HRDD must be part of the assessment of many of the elements in the tool. It will not be possible to get a top score if the organisation just bases itself on desktop analysis, unless it can rule out any significant human rights risks in its own operations or in its value chain and/or business relationships.

The quality of the HRDD will rely on whether key staff and management have capacity and expertise, as well as necessary time and resources. This aspect and possible constraints on the efficiency of the HRDD must be explored in relation to all elements in the tool, and will directly affect the score on each element.

1. Identify and assess

This core element assesses the degree to which the HRDD is based on an adequate policy commitment and identifies, assesses and prioritises the potential and actual adverse human rights impacts that the business causes or contributes to, or that it is directly linked to through its operations, goods or services through a business relationship. The identification and assessment should, therefore, cover both actual and potential adverse impacts in the organisation's own operations, as well as identification and assessment of risks in the supply chain and business relationships. The activities should include increasingly in-depth assessments of high-risk areas and business relationships, and the organisation's involvement in actual or potential impacts, in order to determine the appropriate response.

A. Policy commitment

The following questions provide guidance in assessing the sub-element:

- Is a human rights policy in place?
- Does it refer to all relevant recognised international conventions and instruments?
- Is it approved by the most senior level of the organisation?
- Is it based on an assessment of which human rights the company is most likely to have an impact on?
- Does it stipulate specific policies and guidance on how to address the organisation's most severe risks?
- Does it make the necessary commitment of resources in order to meet the organisation's duties under the UNGP, and does it stipulate how resource restraints can be addressed, e.g. through collaborate approaches and careful prioritizing?
- Is it publicly available in all relevant languages?
- Is the policy commitment subject to periodic review and revisions?

B. Responsibility for the implementation of the policy commitment

The following questions provide guidance in assessing the sub-element:

- Are responsibilities assigned at board level?
- Are the responsibilities for the implementation of policy commitment clearly allocated on senior management and operational levels?
- Is responsibility allocated to those staff whose actions and decisions are most likely to increase or decrease risks?
- Are they given sufficient time and resources to conduct the required tasks?
- Are the responsibilities for implementation of the policy commitment specified in relevant personnel's job description and discussed e.g. during performance reviews?
- Is implementation of the human rights policy commitment regarded as important by the responsible staff?
- Are incentives, like bonus programs and/or oversight systems, applicable to the relevant positions, supporting strong implementation of the responsibilities? Are there disincentives?

C. Embedding of policy commitment in organisation

The following questions provide guidance in assessing the sub-element:

- Has the policy commitment been communicated internally?
- Are reporting and communication channels established between relevant senior management and implementing departments/staff for information on risks and decision-making to be formally shared?
- Are reporting systems in place to collect, keep, share and make accessible information on HRDD processes, outcomes, findings, decision-making and responses?
- Has training been provided for personnel in relevant business functions?
- How are new employees introduced to the policies, procedures and responsibilities?
- Are consequences of breaches specified and implemented?
- Is it a formal process on how to respond to situations where the human rights policy commitment is not observed?

D. Identification and assessment of risks and impacts – on country, local environment, industry and company level relating to own activities and products and services.

The following questions provide guidance in assessing these sub-elements. It is important that the organisation can provide documentation of the risk and impact assessments undertaken, e.g. that the organisation's answer to each of the questions below is supported by documentation. Please note that documentation should be obtained as evidence of the identification and assessment of risks and impacts.

The following questions provide guidance in assessing the sub-element:

- Do the policy and procedures specify how risks and impacts are to be identified?
- Is it specified that risks and impacts arising from the organisation's own operations shall be identified, and are all entities of the organisation included?
- Is the scoping based on generally known risks in the relevant country, local environment, industry/sector/product and company?
- Does the HRDD undertake, periodically, a broad scoping to identify high-risk areas and activities in the supply-chain and among business partners? Does the HRDD undertake appropriate and adequate in-depth assessments of high risk areas and business relationships?
- Is the risk and impact assessment based on information actively gathered to understand the geographical and industry related risks?
- Is information gathered from both internal and external sources, including consultation with external experts to obtain sufficient information?
- Is it explained how risks and adverse impacts are prioritised? Does this cover all relevant elements, i.e. scope, scale and remedially?
- Is the organisation's involvement with the actual or potential risk assessed (cause, contribute or directly linked) in order to determine appropriate responses?
- Does the HRDD manage to identify and prioritize the most salient risks?

E. Identification and assessment of the identification of affected stakeholders, the consultation with them and incorporating their insights into the risk assessment

The following questions provide guidance in assessing the sub-element:

- Does HRDD facilitate stakeholder engagement at all stages of the HRDD (i.e. when developing the policy and procedures, when identifying risks and adverse impacts, when deciding how to address risks and impacts, how to remediate and how to conduct stakeholder consultations)?
- Does the HRDD set out how to identify and prioritize the most vulnerable and severely impacted stakeholders for engagement?
- Does the HRDD explain how to perform "good faith", free and two-ways consultations with affected stakeholders? And are consultations carried out with a genuine intention to understand the stakeholders' perspectives and with the objective to address their adverse impacts and for mutual understanding?
- Does the HRDD explain how stakeholders are involved in the organisation's activities, and how their considerations and viewpoints are actively communicated to management and implemented in decision-making and the organisation's responses to risks and adverse impacts?
- Does the organisation succeed in engaging with the most vulnerable and affected groups?
- The organisation facilitates stakeholder consultations by initiating such consultations as early as possible, by providing the relevant stakeholders with the necessary information about the business project that affects them and also provides

means and funds necessary for the stakeholder groups' meaningful participation in the consultation (e.g. funds for travel, communication and other practical arrangements).

Does the organisation collaborate with others (i.e. other business actors, trade unions, multi-stakeholder initiatives or NGOs) in the stakeholder engagements? If so, how is that carried out?

Are stakeholders' considerations and viewpoints actually reflected in decisions affecting them and in all element of the HRDD?

Are stakeholder engagement a continuing and recurring activity?

F. Identification and assessment of vulnerable groups is covered by the HRDD

The following questions provide guidance in assessing the sub-element:

Is the HRDD based on known risks to vulnerable groups and how these should be addressed?

Do the policy and procedures specify how to identify and assess risks for vulnerable groups, including indigenous peoples, marginalised groups and disabled people? Are the relevant groups actually involved in the assessment – and how?

G. Identification and assessment of gender sensitive risks is covered by the HRDD

The following questions provide guidance in assessing the sub-element:

Is the HRDD based on known gender-related risks and/or adverse impacts?

Do the policy and procedures specify how to identify and assess gender sensitive risks? Are the relevant groups actually involved in the assessment – and how?

H. Identification and assessment of identification of "control points" in case parts of the value chain is difficult to reach

The following questions provide guidance in assessing the sub-element:

Does the HRDD specify how to deal with risks and adverse impacts beyond Tier 1 in the supply chain (i.e. beyond the direct contractual relationship)?

Does the organisation implement adequate procedures and mechanisms for identification of risks and impacts beyond Tier 1 in the supply chain (i.e. beyond the direct contractual relationship)?

Do the identification and assessment of risks and impacts deep in the supply chain, e.g. assessment of the quality of the HRDD of related business actors, include information from third-parties, external experts, multi-stakeholder initiatives, on-site visits and/or other activities?

Is the process of identification and assessment of the risk and adverse impacts beyond Tier 1 in the supply chain (i.e. beyond the direct contractual relationship) repeated at regular intervals?

If business actors in high-risk value chains are difficult to reach, do the policy and procedures explain mechanisms to assess business relationships deep in the supply chain directly and/or to collaborate with mid-stream actors in the supply-chain, e.g. "control points" in the supply chain, so that their HRDD can be assessed against the requirements of UNGP?

I. Identification and assessment of identification on the most salient human right risks

The following questions provide guidance in assessing the sub-element:

Does the HRDD specify how to prioritize human rights risks and how to identify the most salient risks, i.e. based on scope (severity), scale (likelihood) and remediability?

Does the HRDD describe how to prioritize, e.g. if there is a risk of loss of life or serious damage to health, the severity and irremediability may be greater factors than scope (likelihood)?

Does the HRDD describe when and how internal and external expertise should be included?

Does the HRDD describe how and when stakeholders should be engaged?

To what extent do the outcome of the identification and assessment of the most salient risks, in practice, form the basis for the HRDD?

Are the identification and assessment of the most salient risks repeated with regular intervals?

- J. Identification and assessment of significant changes to operations and/or context changes, products and/or services result in revisiting the assessment of human rights risks.

The following questions provide guidance in assessing the sub-element:

Do the policy and procedures specify that the assessment of human rights risks are revisited in case of;
Significant changes to operations?
Significant changes to context?
Significant changes to products and/or services?
Are there concrete examples of such changes and are they part of a systematic approach by the organisation?

2. Prevent and mitigate

This core element assesses the degree to which the HRDD has been implemented within the organisation, in its projects and value chain.

The element covers both measures to cease and prevent potential impacts that the organisation cause or contribute to, and measures taken to seek to prevent and mitigate adverse human rights impacts that the organisations operations, products or services are directly linked to by a business relationship, i.e. how the organisation integrates and acts upon the findings.

In this process, it is important that the responsibility is clearly assigned to senior management for ensuring that the organisation stops its own activities that cause or contribute to adverse human rights impacts, and that activities that may cause or contribute to adverse impacts in the future is prevented. The organisation must use and build its leverage over business relationships, including business actors throughout the supply-/value-chain. This is necessary in order to prevent and mitigate in the most efficient manner potential and actual adverse human rights impacts that is directly linked to its operations, products or services through a business relationship. Responsibility for developing, implementing and monitoring plans to prevent and mitigate actual or future adverse impacts that are directly linked to the organisation's operations, products or services, must be clearly assigned to senior management. Please note that documentation, e.g. register over suppliers' confirmation and audits should be obtained as evidence of implementation of the HRDD.

- K. Prevent and mitigate – Assess identification and integration of risks and impacts in plans and procedures and includes fit-for-purpose and effective actions to avoid, prevent and/or mitigate the concrete risks and negative impacts

The following questions provide guidance in assessing the sub-element:

Are risks and impacts arising from the organisation's own activities considered in practice, e.g. in project evaluations?
Does the HRDD specify how the identified risks are to be integrated in plans?
Do the policy and procedures specify actions to avoid, prevent and mitigate the concrete risks and negative impacts?
Are actions of how identified risks are avoided, prevented and mitigated described in project documents?
Have the requirements been implemented in practice?
Is there a system for documenting instances of non-compliance with actions specified in project plans registered?

- L. Prevent and mitigate – Assess fit-for-purpose training for relevant staff and management

The following questions provide guidance in assessing the sub-element:

Do the policy and procedures specify which roles need to be trained in human rights?
Do the policy and procedures specify which roles need to be trained in human rights due diligence?

Is the training specified in the relevant staff and management's training program?
 Has awareness training material been developed?
 Has training on the human rights due diligence been developed?
 Is there any documentation on the training? Is it followed-up that relevant functions have received training on the policy commitment as specified in program?

M. Prevent and mitigate – Assess how the organisation consults and cooperates with workers and their representatives as well as affected stakeholders to develop appropriate actions.

The following questions provide guidance in assessing the sub-element:

Do the policy and procedures specify how workers and workers' representatives are consulted to develop appropriate actions? Have the requirements been implemented in practice?
 Do the policy and procedures specify how stakeholders are consulted to develop appropriate actions? Have the requirements been implemented in practice?
 Is there any documentation on cooperation with workers; workers' representatives and stakeholders?
 Is there any documentation on actions developed?
 Are the actions implemented in the project documentation?

N. Prevent and mitigate – Assess extent to which the organisation stops any own action or operation that it is causing or contributing to negative human rights impacts, and develop plans to prevent and mitigate future negative impacts stemming from the organisation's own activities

The following questions provide guidance in assessing the sub-element:

Do the policy and procedures specify in which cases operations shall be stopped in case it is causing or contributing to negative human rights impacts? Have the requirements been implemented in practice?
 Do the policies and procedures specify which plans shall be developed to prevent and mitigate future negative impacts? Have the requirements been implemented in practice?
 Is there any documentation showing that assessments whether to stop activities have been conducted?
 Is an appointed person responsible to take the decision to stop operations in case of negative human rights impacts?
 Have there been any cases where operations have been stopped due to negative human rights impacts?

O. Prevent and mitigate - Assess whether the organisation has developed pre-qualification procedures for suppliers and other business relationships based on HRDD.

The following questions provide guidance in assessing the sub-element:

Do the policy and procedures specify pre-qualification of suppliers and business partners regarding human rights?
 Do the policy and procedures include risk analyses of suppliers and business partners?
 Is there any documentation on risk analysis and pre-qualification of suppliers and business partners?

P. Prevent and mitigate – Assess whether the organisation communicates clear expectations to their suppliers and business partners, throughout the value-chain, that they shall respect human rights and that appropriate and effective HRDD be undertaken by their suppliers and business partners.

The following questions provide guidance in assessing the sub-element:

Do the policy and procedures require confirmation of the human rights policy?

Is there an overview over suppliers' confirmation of the human rights policy?

- Q. **Prevent and mitigate – Assess whether the organisation has included rights to receive information and right to inspection/audit, as well as right to exercise legal leverage in case of failure to prevent or mitigate human rights abuses, in their contracts/agreements with its business partners.**

The following questions provide guidance in assessing the sub-element:

Is it actively communicated to others directly linked to its operations, such as business partners, and potentially affected stakeholders?

Do the policy and procedures require confirmation of the human rights policy? Is there a register over suppliers' confirmation?

Do the policy and procedures include self-assessment questionnaires?

Do the policy and procedures include audits?

Do contracts include human rights clauses? Do contracts include describe consequences in case the human rights policy is breached?

- R. **Prevent and mitigate – Assess the different strategies the organisation uses to build leverage over its business relationships, including cooperation with other actors, industry organisations or others.**

The following questions provide guidance in assessing the sub-element:

Is the organisation member of relevant organisations to promote human rights? Is it actively involved?

- S. **Prevent and mitigate – Assess whether the organisation supports relevant suppliers and other business relationships in prevention and mitigation of negative human rights impacts, e.g. through training, upgrading of facilities or strengthening of management systems.**

The following questions provide guidance in assessing the sub-element:

Is the organisation member of relevant organisations to promote human rights? Is it actively involved?

Does the organisation subscribe to any relevant sector charters?

Does the organization cooperate with suppliers and business partners in preventing and mitigating negative human rights impacts?

- T. **Prevent and mitigate – Assess that the organisation has procedures or guidelines for disengagement from suppliers or other business relationships in cases when risk and/or negative impacts continue after failed attempts to prevent and mitigate.**

The following questions provide guidance in assessing the sub-element:

Do the policy and procedures specify situations where disengagement from suppliers should be considered? Have the requirements been implemented in practice?

Do the policy and procedures specify situations where disengagement from business partners should be considered?

Is there any documentation on the assessment being conducted?

Is there documentation to show that attempts to prevent and mitigate negative human rights impacts have been made?

- U. **Prevent and mitigate – Assess whether the organisation engages with governments in countries where negative human rights impacts are occurring, with a view to encourage local authorities to address prevailing human rights issues through inspections or changes to regulatory framework.**

The following questions provide guidance in assessing the sub-element:

Does the organisation have a good understanding of local law and regulations? Does this have any implications for prevention and mitigation?

Does the policy encourage engagement with local governments on HR issues? Has this occurred?

If not, does the policy/procedures restrict possibilities to engage with local governments?

Does the organisation follow-up changes to the regulatory framework?

- V. Prevent and mitigate – Assess presence of key performance indicators that may work against proper HRDD, and if the organisation has clear policies and systems in place in order to solve conflicts between respecting human rights and meeting business objectives.

The following questions provide guidance in assessing the sub-element:

What are the KPI?

Have they been assessed against the human rights policy?

How are challenges related to meeting temporal and budgetary requirements handled in cases where they may conflict with human rights?

3. Track performance

Tracking involves first and foremost assessing whether identified adverse impacts have been responded to effectively. This core element assesses the extent to which the HRDD performance is periodically tracked through the use of indicators and systems to ensure that negative human rights impacts are being prevented taking into account stakeholder feedback. It requires that systems are developed to track internal and business relationship performance on due diligence, and carry out periodical assessment on business relationships to verify that risks are mitigated and adverse impacts are prevented.

- W. Track performance - The organisation has developed indicators and systems in order to track HRDD performance internally and among supplies and business partners, and periodically monitor that negative human rights impacts are being prevented.

The following questions provide guidance in assessing the sub-element:

Do the policy and procedures specify how the tracking is to be conducted? Have the requirements been implemented in practice?

Does the tracking relate to own operations?

Does the tracking include suppliers and business partners?

Is it specified that the tracking shall include feedback from external sources?

Are the policy and procedures to be updated in case of changes to operations, context, products/services?

Are the policy and procedures updated following new human rights risks and impacts being identified?

Is an appointed person responsible for following up that requirements are met?

Does this person follow-up that the indicators and systems are revisited in case of significant changes?

Is there any records of tracking?

Is the monitoring especially focussed on capturing gaps in the existing assessments as compared with actual developments in the organisation's operations, goods or services, as well as in the operational context?

Is follow-up of registered non-compliances conducted?

Does management periodically review HRDD system and performance to ensure the system is working as intended towards continuous improvement and prevention of human rights impacts?

- X. Track performance - The tracking is based on feedback from stakeholders and input from grievance mechanisms and other feedback-loops.

The following questions provide guidance in assessing the sub-element:

- Do the policy and procedures specify that the assessment of human rights risks are revisited in case of significant changes to operations, the context or products and/or services?
- Is an appointed person responsible for following up that the human rights risks assessment is revisited in case of significant changes?
- Is feedback from relevant stakeholders sought and how does it impact the review and follow-up in the HRDD?
- Are the monitoring and review of the organisation's stakeholder engagement informing the continued improvement of the activities?
- Are concerns raised through the grievance mechanism used as input?
- Is there any documentation on the assessment being revisited?

4. Communicate

This core element assesses the degree to which the organization accounts for how it addresses its human rights impacts and communicates this publicly. Formal reporting is required when the organization's operations or operating context pose risk of severe human rights impacts, see UNGP Principle 21.

Y. Communicate –The organisation communicates externally on how they address their human rights impacts.

The following questions provide guidance in assessing the sub-element:

- Do the policy and procedures specify external communication regarding how the organisation addresses its human rights impacts?
- Is the communication directed to specific stakeholders that are actually or potentially impacted?
- Is the communication directed a wider group of stakeholders, including investors?
- Are the means of communication specified, e.g. in person meetings, consultations with stakeholder groups or formal reporting?
- Is there an appointed person responsible for the communication, e.g. community liaison officer?
- Is there any documentation on communication available?
- Does the communication reflect the actual human rights impacts?

Z. Communicate –The organisation ensures that the communications pose no risk to affected stakeholders or others, or breaches confidentiality requirements.

The following questions provide guidance in assessing the sub-element:

- Do the policy and procedures specify actions to ensure that communication pose no risk to stakeholders? Is this implemented in practice?
- Do the policy and procedures specify actions to ensure that communication do not breach confidentiality requirements?
- Is an appointed person responsible for following up that requirements are met?
- Is review of communication conducted before being released/published?
- Is there any documentation of any such assessments?

AA. Communicate –The information provided is sufficient to evaluate the adequacy of the organisation's response to the particular human rights impacts involved.

The following questions provide guidance in assessing the sub-element:

- Do the policy and procedures specify details of what the information provided should contain? For instance; information regarding the particular risks, management of these, stakeholder engagement, potential mediation and remediated.

BB. Communicate –The organisation reports on its HRDD when the operations or the operating context pose risks of severe human rights impacts.

The following questions provide guidance in assessing the sub-element:

- Do the policy and procedures specify details of what the information provided should contain?
- Is the reporting focussed on severe human rights risks, or its HRDD in general?
- Does the reporting include policy, procedures and activities undertaken?
- Is the reporting on a case by case basis of periodic such as annual reporting?
- Does the communication reflect the actual human rights impacts?
- Is there any documentation on different forms of reporting?
- Is an appointed person responsible for the reporting?
- Does this person follow-up that reporting is updated, e.g. in case new human rights risks being identified, updates on remediation etc.?
- Is the reporting subject to independent verification?

CC. Communicate –The organisation communicates with impacted stakeholders on concerns raised by them, relevant human rights risks and actions taken.

The following questions provide guidance in assessing the sub-element:

- Has the organisation established an appointed person/committee for hearing, managing and addressing concerns and complaints?
- Do policy and procedures specify how concerns and complaints are received, managed and remediated?
- Is the person raising the concern or complain or his/her representative engaged in the process?
- Is the person reporting a grievance allowed to participate in hearings and informed of the outcome of the process?
- Is there any documentation of concerns raised and how these have been managed and remediated?
- Is the human rights risks assessment is revisited following results of raised concerns?
- Is the effectiveness of the system to receive, manage and remediate any grievances reviewed?

5. Remediation

This last core element assesses the extent to which a grievance mechanism is in place and remediation is provided for human rights impacts that the organisation itself has caused or contributed to. Remediation can be provided by the organisation itself through operation-level grievance mechanisms or in cooperation with others. The remediation must be provided through legitimate processes, i.e. processes that enable trust from stakeholder groups for whose use they are intended, and being accountable for the fair conduct of the grievance processes, see UNGP Principle 31.

DD. Remediation –The organisation enables effective remedy if people are harmed by its actions or decisions in relation to a salient human rights issue.

The following questions provide guidance in assessing the sub-element:

- Do policy and procedures specify the process for effective remedy?
- Is an appointed person/committee responsible for ensuring that an effective remediation process is conducted?
- Is there any documentation of cases that have been remediated?

EE. Remediation –The organisation has established or participate in operational-level grievance mechanisms that are legitimate, accessible, predictable, equitable, transparent, and rights-compatible.

The following questions provide guidance in assessing the sub-element:

Has the organisation established, or is participate in a grievance mechanism?

Do the policy and procedures specify how reported grievances are to be handled to ensure that it is predictable, equitable and transparent?

Is the mechanism easily accessible and communicated to relevant stakeholders?

Is the process for handling reported grievance cases communicated to stakeholders?

Is it specified that reporting of grievances will not result in threat of retaliation by the company?

Is there a register of reported grievance cases?

Is there any documentation on reported cases and how these have been addressed?

Is the HRDD updated following the results of the remediation of grievance cases?

FF. Remediation –The Grievance mechanisms are based on engagement and dialogue regarding design and effectiveness.

The following questions provide guidance in assessing the sub-element:

Have potentially affected stakeholders been consulted about the design of the grievance mechanisms?

Have potentially affected stakeholders been consulted about the effectiveness of the grievance mechanisms?

GG. Remediation –The Grievance mechanisms is a source of continuous learning.

The following questions provide guidance in assessing the sub-element:

Is input from the grievance mechanisms used to improve the organisation's understanding of its human rights impacts?

Have the HRDD been improved due to input from the grievance mechanism?

The reviewers then summarise the findings of their assessment for each of the core sub-elements, and give it a score on the 0-3 scale detailed above. Figure 1 presents a hypothetical illustration of the assessment tool's output at sub-element level.

FIGURE 1 EXCERPT OF THE TOOL WITH HYPOTHETICAL EXAMPLE FILLED IN

Core	Sub-element	Design of Policy/ procedures	Implementation	Monitoring	Score (max score 8)	Comments
Identify and assess	A policy commitment on human rights is in place. It is based upon recognised international conventions and standards and approved by senior management. It clearly communicates the human rights expectations of employees and partners throughout the value chain of its operations, products and services.	2	2	2	6	The organisation has a stand-alone environmental and human rights policy which is publicly available, but does not describe approval of management. The policy commits to national and international standards including white paper on Corporate Social Responsibility, OECD common approaches, World Bank and IFC performance standards and UNGP in addition to compliance with local laws and regulations. Its score includes identifying and assessing actual and potential impacts and seeks to
Identify and assess	The HRDD considers risks and impacts arising both from the organisation's own activities as well as risks and impacts that are directly linked to the organisation's operations and products and services, and assesses whether the organisation causes or contributes to the negative impact, or whether its operations, products or services are directly linked to the negative impact through a business relationship, even if it has not caused or contributed the impact.	2	3	2	7	The organisation's main activity is project related. General internal procedures require HRDD of all projects in accordance with UNGP, OECD and IFC. A specific procedure for Human Rights Due Diligence is also in place.
Identify and assess	The HRDD identifies and assesses the human right risks in the relevant countries	3	3	2	8	The HRDD covers all material projects in all countries and has a systematic approach to country risk assessments. No countries are excluded from the assessment.
Identify and assess	The HRDD identifies and assesses the human right risks in the relevant local environment	2	2	2	6	The HRDD covers all material projects and assesses risk relevant to the local environment.
Identify and assess	The HRDD identifies and assesses the human right risks in the relevant industry	2	2	2	6	The HRDD specifies specific attention to potentially high risk sectors and has specific routines for key activities such as existing operations, associated facilities and supply chain.
Identify and assess	The HRDD identifies and assesses the human right risks in the relevant company	0	0	0	0	The HRDD focuses on human rights risks in projects and not in client companies.
Identify and assess	The HRDD identifies and assesses gender sensitive risks	0	0	0	0	Gender sensitive risks are not covered by the HRDD specifically.

Further, a score is automatically calculated for each of the core elements, as the simple average of its sub-elements. This provides an easily accessible illustration of quality of the organisation's processes and practices of Human Rights Due Diligence, as seen in the hypothetical example below.

Annex 6: Southern Agricultural Growth Corridor of Tanzania (SAGCOT)

Context

The sections with introductory text and findings are part of the main evaluation report but repeated in this annex for a holistic case project read.

The Southern Agricultural Growth Corridor project is an ambitious initiative to accelerate agricultural development in the corridor that goes from the coastal area around Dar es Salaam, through Morogoro and Iringa, to Mbeya and the Zambian border. This is an area that covers about a third of the country, or the size of Italy. The strategy is to support modernisation of the predominantly smallholder based agriculture through establishment of large-scale farms, support to outgrower schemes with more intensive use of inputs and by strengthening the supply chains throughout the area. The project is to support the SAGCOT Centre Ltd., which is set up as a public private partnership to spearhead agricultural development in the area, and is funded by the World Bank, DFID, USAID, Norway, EU and UNDP.

The SAGCOT Centre functions as a hub and a facilitator, and is thus also linked to two of the other case projects, namely the Kilombero Plantation and the Yara fertiliser terminal. The project builds on a previous agreement to support the SAGCOT Centre that was initiated in 2010, where the Embassy, Yara and Norad were involved.

Due diligence in planning and start-up

The due diligence process included a Strategic Regional Environmental and Social Assessment (SRESA).³⁰ The assessment did not address human rights in an explicit manner, but were organised under environmental and social risks. Several of the social risks identified are human rights related. The key one was the risk for local communities to lose land rights. Another risk was "real or perceived inadequate compensation and / or benefits to local residents as a result of ... inequitable negotiation processes" (p. 52). The risk of women being neglected in the decision making processes was also identified. The mitigating action prescribed to these risks were to develop Standard Operating Procedures for ensuring clear, consultative and well documented processes.

The Assessment also included an "Environmental and Social Management Framework". This was published together with the SRESA. Normally the SRESA would be done first and the Framework prepared on the basis of the findings of the Assessment, but in this case the production of the Framework had been accelerated in order to enable speedy release of funds from the World Bank (the existence of a Framework is a condition for payment from the World Bank). The Framework does not present a systematic risk analysis, and refers to the SRESA for operational recommendations.

The key action that was taken to address social and environmental issues after the SRESA, was SAGCOT's establishment of a Green Reference Group (GRG) for critical monitoring of the project. The GRG consists of different categories of "Feeder Groups" consisting of different types of stakeholders. From the beginning this included an Environment Feeder Group which consisted of national and international environmental NGOs. This group was also expected to deal with social issues. A bit later a stand-alone Social Feeder Group was established, consisting of governance oriented NGOs. The groups are given the mandate to conduct relevant monitoring in the SAGCOT area and to receive and investigate reports from other stakeholders.

The MFA's Decision Document is dated November 2014, which means that at the time, human rights were not included under cross-cutting issues. The Document refers to a conflict between the Government of Tanzania and the World Bank over the issue of Indigenous Peoples, a concept which the Government does not recognise. This issue was later resolved by the Bank accepting to drop the term Indigenous Peoples.

30 ERM. 2012. "Strategic Regional Environmental and Social Assessment. Interim Report", report commissioned by SAGCOT, dated July 2012.

The Document mentions that SAGCOT "has been challenged by actors of 'land grabbing'", and refers to the Resettlement Policy developed as part of the SRESA as the action taken to deal with this risk. The establishment of the Green Reference Group is further cited as the key action to deal with (primarily) environmental and social issues.

Due diligence in implementation

The SAGCOT project has not had the hoped for impact and has struggled with poor capacity in the first years of implementation. The 2015 audit showed that the Centre had not paid taxes or social benefit contributions for its staff. This in itself can be seen as a human rights violation. The staffing has since been strengthened. The projects website shows presents the safeguards that were developed with the SRESA, but these have not been further developed and updated since then. In interview with the Centre, they stressed the role of the GRG as the safeguards against human rights abuses. The Social Feeder Group had taken part in the investigations concerning Kilombero Rice Plantation (see above). They identified 16 issues of concern, and according to the SAGCOT Centre, all except one had been dealt with (the exception being a land issue that required intervention from the Ministry of Lands).

In a separate interview with a representative from the GRG, the interview team was informed that the GRG had not been informed of any action taken. Respondents also described a process of consultation where civil society members of the GRG, were not part of the agenda setting and had limited resources and opportunity to shape the process.

Whereas the role of the GRG had been stressed in the Decision Document, the responsible officer at the Norwegian Embassy, who had been in the position for a little more than a year, informed the evaluation team that he had only just learned about the GRG's existence, and that also other new members of the donor group had been surprised to hear about them.

It is also relevant to note that the updated risk matrix in SAGCOT's 2017 annual report, does not list land rights as a risk, nor any other human rights related issues.

When questioned on the absence of land rights as a risk in the latest report, the SAGCOT CEO explained that this was due to a change in their applied strategy. The Centre has decided not to support investors accessing land from villages in the Corridor. From what they had observed, they did not trust that this could be done in a responsible way, and for that reason they had decided to rely on land already owned by government or companies. When asked by the team, the embassy was not aware of this implicit change in policy.

SAGCOT does not have a dedicated grievance mechanism, but informs the team that this is being developed and will be available on their website in the near future. Thus far, the Centre has relied on the GRG for receiving grievances. They do not have a register for grievances received by the GRG.

Findings

The evaluation finds that the Human Rights Due Diligence done for the SAGCOT project is weak and partially inconsistent:

- ✓ The key document in the project preparation was the Strategic Regional Environmental and Social Assessment. Some human rights were captured under the heading of Social risks, namely land loss and lack of meaningful consideration of the rights of local communities and women, there was no detailed plans of how this would be followed up.
- ✓ The project has to a large extent relied on civil society organisations playing a monitoring role to mitigate social risks, but this has not been done in a systematic manner that has built trust or enabled learning.
- ✓ There is no stand-alone grievance mechanism, and the project's updated risk assessment does not capture human rights risks
- ✓ The embassy lacks the capacity and competence to perform their own ongoing due diligence (on capacity, they state that not enough time is allocated to field visits, and on competence they miss specialised knowledge in, for example, land tenure.

There were certain lost opportunities for innovation that could have been better utilised:

- ✓ The use of civil society for independent monitoring is potentially an effective tool. The monitoring was not properly resourced and lacked structure for a more transparent and participative setting of agenda, and agreement for sharing of information.
- ✓ The SRESA recommendations to develop detailed Standard Operating Procedures for processes around land allocations and community consultations could have provided needed structure for providing practical standards for consultation and documentation of the process. In the absence of this, it is not only difficult for the responsible officers to do sufficiently good consultation, but also much more difficult to ensure good enough documentation afterwards.

The team did note that the Embassy in its work in the project steering committee, repeatedly asked that more attention be paid to social issues. This has not, however, been done in systematic manner with follow up from the donors on the extent to which issues have been addressed.

Annex 7: Agrica – Kilombero Plantation Ltd. (Norfund, Tanzania)

Context

The sections with introductory text and findings are part of the main evaluation report but repeated in this annex for a holistic case project read.

Agrica is a Guernsey registered company that owns and operates Kilombero Plantation Ltd (KPL) in a public private partnership with Rufiji Basin Development Authority (RUBADA). RUBADA is a government authority that supports development and had been given custody of the abandoned farm. RUBADA sold the farm to Agrica, and retained an 8,3% share in the farm. Norfund has invested in Agrica, together with Capricorn Investment Group and AgDevCo.

KPL is a rice farm on Tanzania's Southern Highlands, and Agrica's only project. The operations started in 2008. It is a rice farm with irrigation and a processing facilities powered by its own mini-hydro power-station. The farm also supports farmers in surrounding villages to adopt and run a system for intensified rice cultivation. The area controlled by the farm is just under 5,500 hectares, of which 3,000 hectares is already covered by irrigation and under cultivation.

Agrica took over an abandoned state-owned farm that had been under the custody of RUBADA after a North Korea-Tanzania government partnership, who had first developed the farm in the late 1980s, abandoned it in 1993. During the period of abandonment, a number of farmers from across the country settled on the farm as illegal squatters. The area also attracted a high influx of livestock driven there by herders. The resettlement of the squatters became a key issue when KPL took over the farm.

After taking over the farm, KPL conducted a "Squatter Survey" and documented 2238 migrant or local farmers on the land.³¹ This in contrast to the 584 squatters originally reported by the government authority. Working from the survey, KPL went on to develop a "Resettlement Action Plan".³²

A large number of farmers had settled on an undeveloped part of the farm area. In order to minimize the population to be resettled, Agrica decided to transfer 400 hectares to surrounding villages. This left 230 Project Affected Persons (PAPs) who had to be relocated. It is interesting to note, that according to Tanzanian law, the PAPs were entitled to compensation for the value of their crops but not for the land, per se, seeing that they were considered as "squatters" without any legal claims to the land they had occupied. According to the IFC Performance Standards, however, affected farmers were entitled to compensation also for the value of the land. The Resettlement Action Plan provides a table that compares the rights of PAPs regarding compensation according to the IFC standards and Tanzanian law (KLP 2010, 17-18).

Due diligence

The Due Diligence for the project was done by Norfund.³³ The report included the following findings relating to human rights/This covered the following human rights issues:

- ✓ It is ascertained that all full-time and temporary workers have contracts – sample contracts have been provided, and they comply with national regulations
- ✓ Wages are within National Agricultural Minimum Wage
- ✓ There is a workers grievance mechanism in place

31 The "Squatter Survey Report" is cited in "Norfund Due Diligence List Social and Environmental Performance: Agrica, Tanzania", Norfund, n.d. Unless stated otherwise, the information in this and the following paragraph is from the same document.

32 KPL. "Resettlement Action Plan. Redevelopment of rice and bean cropping at Mngeta Farm. Kilombero Valley, Kilombero District, Tanzania. Final Report", April 2010.

33 "Norfund Due Diligence List Social and Environmental Performance: Agrica, Tanzania",

- ✓ As to gender issues, rights to maternity leave is given. There are no mention on initiatives to address sexual harassment
- ✓ The right to unionise is provided, although no labour union was present at start of project
- ✓ Health and Safety measures found to be in order
- ✓ All Project Affected Persons had been identified, with size and location of holdings and property registered on GPS
- ✓ The plan for compensation is laid out
- ✓ The process for community consultations is described. A number of public meetings and tours of the project area with local leaders. No resolution cited, instead it is stated that the consultations are "still in progress".

Agrica's implementation of the resettlement plan went beyond what was recommended by RUBADA. The Managing Director explained that this was something Norfund insisted on.³⁴ All remaining farmers that had to be moved were offered alternative land. According to the above mentioned survey, most plots had been 3 acres or less. Agrica assisted the displaced farmers to get 3 acre plots on free land in the area, and paid TZS10,000 (USD 6) per acre to farmers who had been registered with more than 3 acres. KPL paid the villages for the land (at TZS 20,000 per acre) and cleared and ploughed the land for the farmers.

The farmers who had built houses on the land, received new houses in compensation with plots in locations agreed with KPL. The lost houses were non-permanent thatched constructions. To replace these, Agrica built small two-room brick houses with corrugated iron roofs.

KLP contributed USD 150,000 to a Community Development Fund, which was used for construction of classrooms and a water well. They also opened the project Health Centre for use by the surrounding villages as there were no other health centres in the area.

The compensation process and negotiations with neighbouring villages and the local authority took place in a heavily contested political atmosphere. There were parts of the community that were resentful of the investors, and there was also intense political contestation. Protests against KLP was used as a campaigning issue by one opposition candidate for village. After the opposition party won, they proceeded with clearing the village archives, including any documentation that might have been on file on the consultations and agreements with KPL.

At the same time, KPL caught the attention of researchers who were documenting the impact of large-scale agricultural investments. In 2015, the Oakland Institute published a report critical of KPL entitled "Irresponsible Investment: Agrica's broken development model in Tanzania."³⁵ The report cited claims from the surrounding villages that the farm had had an adverse impact on their livelihoods:

- ✓ Displaced farmers said the compensation they had received was inadequate and less than promised. There was also evidence that several of the houses had been built in areas exposed to floods during the rainy season.
- ✓ Pesticide spraying on the farm had drifted to neighbouring plots, destroying crops.
- ✓ The out grower scheme had not given the promised income, and several farmers were in danger of losing their position as a result of debts.

Agrica posted a response to the report, where they explained the basis for calculating the compensation; that the selection of plots had been done in consultation with the farmers in question; and that the compensation they provided was beyond their legal requirements.³⁶ They acknowledged the flooding issue, while pointing out that many houses got flooded that rainy season and that the rainfall had been more than

³⁴ Interview with Graham Anderson, Managing Director, KPL, 5.12.2017, Dar es Salaam.

³⁵ The Oakland Institute (2015). Irresponsible Investment: Agrica's broken development model in Tanzania, report published in collaboration with Greenpeace Africa and Global Justice Now.

³⁶ Letter from Agrica to Oakland Institute and Greenpeace Africa, dated 29 May 2015.

twice the average. Regarding pesticides, they acknowledged that there might have been contamination in the first year of spraying, but that they had doubled the buffer zone to 500 meters.

As concerns complaints in connection to the outgrower scheme, they pointed out that a large part of the problem was due to a collapse in rice prices, following a largely unchecked inflow of non-taxed imported rice. Agrica acknowledged that the terms of the micro-finance arrangements had not been ideal and that they were working to find better solutions, while pointing out that participation in the scheme was voluntary. Oakland Institute issued a response to Agrica's reply, in which they reiterated the concerns and dismissed accusations from Agrica of unbalanced research and presentation of findings.³⁷

The findings of this evaluation suggests that Agrica has demonstrated reasonable due diligence of the issues identified:

- ✓ The rights of Project Affected Persons were mapped in a survey at the start of the operations, and a plan was prepared and executed in a consultative manner.
- ✓ The compensations would seem to be beyond the minimum required.
- ✓ Appropriate remedial action was taken following report of herbicide contamination.
- ✓ Norfund acknowledges that the terms of the credit provided to out growers through the scheme supplied by a micro-finance provider may not have been ideal, and have sought to remedy this.

Findings

Overall, we find that the basic required structures and processes are in place, if not always fully adequate:

- ✓ Policies and procedures are defined, although human rights issues are addressed in the human resources policy, and not in a stand-alone human rights policy
- ✓ Human rights risks in supply chains, including for transport companies, is not covered by companies due diligence.
- ✓ Roles are clearly defined for ESG and community liaisons
- ✓ There are grievance mechanisms in place, including a women workers committee that meets regularly – this was set up following reports of sexual harassment which led to the dismissal of a supervisor

This case clearly illustrates the importance of a thorough HRDD. The affected stakeholder were not properly identified and engaged by KLP initially, prior to Norfund's initiatives. Even though Agrica attempted to conduct a due process, the company and its investors appeared to inherit a situation that proved difficult to resolve, and consequently resulted in controversy. It is clear that situations like this require a high degree of thoroughness and also good and appropriate documentations of consultations and agreements.

³⁷ "Getting the Facts Right on Agrica/KPL. Agricultural Investment in Tanzania," post on website, dated 2 July 2015.

Annex 8: The Yara fertiliser terminal in Dar es Salaam

(Norfund, Tanzania)

Context

The sections with introductory text and findings are part of the main evaluation report but repeated in this annex for a holistic case project read.

Yara International ASA requested Norfund for a USD 6 million loan (initially USD 8 million) for its subsidiary Yara Tanzania Limited in 2011, to finance the construction of a fertiliser terminal in Dar Es Salaam. The terminal, which includes a large (13,000 m²) storage facility and a bagging plant, was expected to improve the supply of fertilisers throughout the country, thereby contributing to an increase in agricultural productivity, which is one of Tanzania's foremost development objectives. The construction of the terminal was one of the key infrastructure projects within the Southern Agricultural Corridor of Tanzania (SAGCOT) initiative.

Yara expected that a partnership with Norfund would help it manage the risk of corruption pressures from Tanzanian officials.

Decision and due diligence processes

The Norfund Investment Committee (IC) gave its Clearance In Principle (CIP) in February 2012, considering that the project was well aligned with Norfund's strategy and entailed low risk. Norfund conducted a due diligence in April 2012, in which the Environmental, Social and Governance (ESG) risks – among others – were further assessed.

The due diligence evaluated the Environmental and Social Impact Assessment (ESIA) that Yara had commissioned and the Management Plan (ESMP) that it had designed in order to address the identified issues. It paid particular attention to the risks along the value chain – in particular the health and safety risks for the Engineering, Procurement and Construction (EPC) contractor – and to the way in which Yara planned to manage these risks. Norfund also evaluated Yara's management of risks related to corruption (Yara had notably conducted a full integrity due diligence of all shortlisted EPC contractors), land acquisition, and external hazards.

The due diligence found that transport risks generated by the construction and operations of the terminal had not been adequately assessed in the ESIA and that the community living near the site had not been properly consulted. As a response, Norfund requested Yara to develop an additional traffic safety management plan. Further, Norfund asked Yara to create a full-time Occupational Health and Safety manager position within the project, and to have its project management system certified. In line with Norfund's general policy, Yara was also requested to commit contractually to meeting the IFC Performance Standards.

On this basis, Norfund rated the project's ESG risk (and also its overall risk) as medium, with corruption and health and safety on the construction site and during operations as the main risk factors.

In May 2012, the Investment Committee gave the Final Approval to the project.

Implementation of Action Plan and monitoring

The terminal was inaugurated by the President of the Republic of Tanzania and the Norwegian Minister of Trade and Industry and started operating in September 2015. It currently has a staff of about 60 employees.

Yara Tanzania Limited will in principle finish repaying the Norfund loan in October 2019. Until then, it submits an Annual Social and Environmental Monitoring Report to Norfund, in which it reports among others on its compliance with national laws and regulations as well as IFC PS and ILO standards, the implementation of the ESMP and the traffic safety management plan, its human resource policy and its

policies with regard to its contractors. Norfund has visitation rights in its legal agreement with Yara and has visited the facility regularly.

Yara Tanzania Limited reports being fully compliant with the Tanzanian law and with its contractual obligations. Its employees have social security and pension coverage, and overtime work is strictly regulated. The facility is inspected by the Tanzanian Occupational Safety and Health Authority as part of its annual licence renewal process. To date, no accident has been experienced at the terminal.

Findings

Yara Tanzania Limited integrates its safety standards in the contracts with its suppliers, and communicates a code of conduct with its value chain partners – whether customers or suppliers. Contractor employees working at the terminal are required to have a proper work contract including a pension scheme, and to Yara International has an ethics hotline that can be used to receive grievances from external stakeholders, but with limitations; members of Yara Tanzania Limited's middle management interviewed for this evaluation did not refer to it, and the internet-based hotline is not necessarily easy to find for a Tanzanian stakeholder.

Norfund has positively contributed to the assessment of environmental and social risks and worked with Yara to improve its ES management.

The corruption case that affected Yara in 2014, although totally unrelated to the operations in Tanzania, tested the relationship between Norfund and Yara. In line with the government's zero tolerance principle, Norfund took the decision not to enter any new agreement with Yara international until further notice. However, Norfund did not terminate the Tanzania loan agreement, considering that this would be detrimental to development objectives in the country.

Annex 9: Globeleq's participation in the Songas power plant (Norfund, Tanzania)

Context

The sections with introductory text and findings are part of the main evaluation report but repeated in this annex for a holistic case project read.

Globeleq is an energy company with assets in various African countries (see table 1). Globeleq was originally owned by CDC, the UK development finance institution, and was sold to Actis Infrastructure Fund II, a private equity fund in which CDC controls 82% of the shares, in 2009. In 2014, CDC decided to re-establish direct control of Globeleq and invited Norfund to participate in the acquisition as a minority shareholder. The joint strategy of CDC and Norfund was to accept higher development risks than Actis in order to spur the expansion of the company through greenfield projects, in particular in gas-fired power plants.

Globeleq's assets include a 54% share in Songas Limited, a Tanzanian company that owns a gas-fired power plant at Ubungu, south of Dar Es Salaam, and a subsea and onshore gas pipeline and gas processing facility supplying the plant, on Songo Songo Island. Globeleq also directly holds 100% of the shares of GTSL, the company that operates the Ubungu plant, while the operation of the Songo Songo gas wells and gas processing facility are contracted to PanAfrican Energy Tanzania Limited. The Tanzanian state entities Tanesco (national electricity company), TDPC (Tanzania Petroleum Development Corporation) and TDFL (Tanzania Development Finance Company Limited) hold minority stakes in Songas Limited. Songas originally bought the Ubungu plant from Tanesco and started its commercial operations in 2004. In 2005, Songas expanded the plant's generation capacity by nearly 50%. The plant currently provides about 20% of Tanzania's power supply.

TABLE 1 PORTFOLIO OF ASSETS OPERATING AND UNDER CONSTRUCTION

<i>Project</i>	<i>Country</i>	<i>MW</i>	<i>Share</i>	<i>Technology</i>	<i>Status</i>
Azito	Cote d'Ivoire	427	76.9%	Gas turbine + expansion to combined cycle	Operational
Songas	Tanzania	190	54.4%	Gas fired plant + gas processing & pipeline	Operational
Tsavo	Kenya	75	30.0%	HFO power plant	Operational
Dibamba ²	Cameroon	88	56.0%	HFO power plant	Operational
Kribi ²	Cameroon	216	56.0%	Gas fired power plant	Operational
De Aar	RSA	50	56.8%	Solar PV	Operational
Droogfontein	RSA	50	56.8%	Solar PV	Operational
Jeffrey's Bay	RSA	138	59.0%	Wind	Operational
TOTAL		1 234	735 MW	(equity weighted)	

Source: Final Board Approval document of Globeleq, dated 09/12/2014; updates provided by Norfund.

Decision and due diligence processes

Norfund conducted the preliminary negotiations with Actis in the first half of 2014, and CDC and Norfund commissioned extensive due diligence examinations in July 2014. The environmental and social due diligence was conducted by Mott McDonald. As the information provided by the vendor with respect to Globeleq's assets was perceived to be limited, CDC and Norfund asked the same advisor to perform a more thorough environmental and social due diligence after the acquisition; the latter mainly confirmed the conclusions of the initial assessment.

Part of the basis for the due diligence was provided by the Reference Framework previously defined by CDC, which comprised the IFC PS, relevant World Bank guidelines and the ILO core conventions. The due diligence also noted that previous stages of development of the Songas facilities had been partly financed by the World Bank, and therefore required to implement the World Bank's environmental and social safeguards.

The due diligence noted the good quality of the Integrated Management System (IMS) at the Ubungu plant, which has OHSAS 18001 and ISO 14001 certifications since 2009. The due diligence positively assessed human resources management and environmental management practices at both sites, as well as Songas' community relations and investment activities. It reported that "there are presently no legacy issues in relation to land acquisition, resettlement, indigenous people or cultural heritage aspects." However, the due diligence also identified certain gaps, in particular regarding:

- ✓ A register of past, ongoing and planned stakeholder engagements;
- ✓ An overview of past, ongoing and planned CSR activities and expenditures;
- ✓ Workers and community grievances registers;
- ✓ The allocation of environmental and social management responsibilities at the Songo Songo facility;
- ✓ The management of several site-specific environmental hazards (soil erosion on the pipeline wayleave, water discharges at both sites).

To address these, the report proposed a 12-month Environmental and Social Action Plan with concrete corrective actions and estimated costs.

Overall, the Songas due diligence evaluated the ESG risks as low to medium. For the total Globeleq portfolio, the ESG risks were ranked high considering the relative lack of information and the strategic objective of engaging in greenfield developments.

The Board of Norfund gave its final agreement to the project in December 2014.

Implementation of Action Plan and monitoring

Following the acquisition, Norfund and CDC appointed a new CEO and seven board members in Globeleq (two directors from Norfund, two from CDC and three external directors appointed jointly by Norfund and CDC). In addition, an ESG sub-committee has been established to specifically oversee the company's policy and new investments in that area, and the Norfund and CDC ESG managers both participate in its meetings as observers. Globeleq makes a status reports of all assets to the Board and the shareholders on a monthly basis; the Board meets quarterly and conducts visits of the assets on an annual basis. In addition, shareholders visits to the assets are organised, often in coordination with lender visits for the monitoring of specific projects.

An ESG manager has been appointed at Globeleq and has started to harmonise health and safety standards in all subsidiary companies. Further objectives include learning and sharing lessons on ESG issues and practices across activities, and integrating ESG considerations at the initial stages of design and investment. Detailed ESG policies in assets are considered to be part of the responsibility of the specific companies.

Songas does not have a policy on human rights specifically. The management of Songas is not familiar with the UNGP and considers that the company's only exposure to potential human rights risks is related to human resource practices and work conditions. Songas has a comprehensive manual of personnel policies and practices that includes a whistle-blowing procedure and protection for whistle blowers, as well as an employee grievance mechanism.

Songas typically requires contractors to undergo health and safety induction provided on site by its instructors at first entry and thereafter once every year. The management of Songas also declares that contractors are encouraged to align on Songas pay policies, and usually do so.

Songas is controlled by the Tanzanian Occupational Health and Safety Authority and the Labour Inspectorate every year. Its management reports a satisfactory safety record, with only one minor incident in recent years.

Songas reports to Globeleq on community development. Its actions include 51 contracts passed since 2004 with the villages along the pipeline, whereby villagers are remunerated for informing the company about the state of the wayleave and pipeline. Songas also has undertaken various CSR programmes with the help of NGOs. A visit of Songas facilities by the Globeleq Board was due in February 2018, shortly after the visit carried out for this evaluation.

Key Findings

Although Songas does not have a human rights policy as such, the main human rights-related risks inherent to its activities seem to have been addressed through time thanks to the consistent application of the World Bank safeguards and the IFC PS. The company has also benefitted from its strong bargaining position, which enabled it to impose strict ESG conditions on its contractors.

After the acquisition of Globeleq, CDC and Norfund have continued this policy and sought to further improve performance as per the IFC PS.

Annex 10: African Century Real Estate (Norfund, Mozambique)

Context

The sections with introductory text and findings are part of the main evaluation report but repeated in this annex for a holistic case project read.

African Century Real Estate Limited (ACRE) is a real estate developer established in 2011 by the African Century Group (ACG) and other investors (including the company's current manager). ACRE consists of a holding established in Mauritius and several subsidiaries based in Mozambique, where the company has acquired 9 DUATs (*Direito do Uso e Aproveitamento da Terra*, equivalent to land leases) representing a total area of 45 ha. The land located in the coastal towns of Pemba and Palma, in the province of Cabo Delgado, an area expected to undergo rapid commercial development in relation to the exploitation of the Rovuma Basin offshore gas fields. ACRE's strategy is to be a first mover in developing residential, commercial and industrial properties. ACRE has already developed three properties: a serviced residence and a business park in Palma, and an office refurbishment in Pemba. Since 2015, however, demand from the oil and gas sector in the region has been sluggish and ACRE has not undertaken any new developments.³⁸

ACRE approached Norfund in 2014 to raise USD 6 million in equity (in shares of the holding structure in Mauritius) and USD 12 million in debt facility (to the Mozambican subsidiary) to finance property developments over the coming years. Norfund engaged with Takura Capital, a private equity fund based in Zimbabwe, and an agreement was reached between the three parties for Takura Capital to invest USD 3 million in ACRE shares, and Norfund to provide the rest of the equity investment and the debt facility.

Norfund's IC and Board gave an approval in principle to the project in November 2014.

Decision and due diligence processes

A legal due diligence and a technical and commercial due diligence were conducted by third parties in the beginning of 2015. The latter comprised a succinct section on environmental and social risks, but Norfund and Takura Capital considered that a more detailed assessment was necessary. Norfund and Takura Capital jointly developed the basis for the assessment, and Takura Capital organised a visit on site in January 2015 – but Norfund did not take part in the visit and Takura Capital did not document its assessment in a proper due diligence report. The main conclusions communicated to Norfund were that:³⁹

- ✓ Inherent ESG risks (i.e. before any corrective was undertaken) were not significant enough to influence the final investment decision;
- ✓ Proper Environmental Impact Assessments (EIA) should be conducted for future developments and should be closely monitored by Norfund and Takura Capital;
- ✓ Social aspects such as Occupational Health and Safety (OHS), community engagement and land rights posed a reputational risk for Norfund and Takura Capital and therefore had to be closely monitored;
- ✓ Due process had been followed in the land acquisition process.

The legal due diligence and documentation provided by ACRE provided further assurance on the latter point, showing in particular that community consultations and public announcements had been carried out in line with Mozambican legislation. A legal counsel was also engaged to verify this point. However,

³⁸ At the time of this review, ACRE expected its activity to pick up within a year or two.

³⁹ For the present evaluation, Norfund provided an "ESG update" prepared by Takura where the main conclusions of the investigation and the actions undertaken by ACRE since 2015 are summarized.

Takura and Norfund did not engage directly with local communities in order to ensure that their preferences and concerns had been voiced during the process.

Norfund and Takura Capital established an Action Plan specifying steps to be taken by ACRE within 100 days of their investment, and other steps to be taken at a later stage. The Action Plan includes some bold governance and anti-corruption measures, including the appointment of Compliance and Anti-Money Laundering officers, the implementation of a Conflicts of Interest Register, the development of a Code of Ethics, the Updating of the Financial Procedures Manual and the constitution of an Audit Committee. On social and environmental aspects, the principal measures of the Action Plan were to:

- ✓ Prepare due process for the sites still to be developed, in particular by conducting EIA, and communicate all EIA to Norfund and Takura
- ✓ Develop and implement an Occupational Health and Safety Policy
- ✓ Report quarterly on OHS performance for developments that are completed or under construction
- ✓ Develop Waste Management Plans for each site
- ✓ Develop and implement a HR Policy in line with the national legislation and with the ILO Declaration on Fundamental Principles and Rights at Work.

Norfund's Board gave its Final Approval to the project on 6 May 2015. ESG risks were rated as medium, considering that "environmental and social risks and impacts of the planned real estate developments are modest (...) and should be relatively simple to mitigate." The main factor of risk in this area was assessed to be occupational health and safety on construction sites.

Implementation of Action Plan and monitoring

ACRE has a duty to report quarterly on the implementation of its ESG Action Plan to Takura Capital. As an equity holder, Norfund follows this reporting. In addition, ACRE is supposed to prepare an annual Environmental and Social Monitoring Report, which it did in 2015 and 2017 (but not in 2016). ACRE is also mandated to report any serious ESG incident directly to Norfund.

Norfund considers that the "environmental and social risks and impacts of the planned real estate developments are modest (...) and should be relatively simple to mitigate", and does not deem it necessary to inspect the project annually.

ACRE implemented the key elements of its Action Plan on governance within a short period after the agreement with Norfund and Takura. On environmental and social aspects, progress has been slower, although ACRE has developed an OHS Policy and has started to implement it with the help of an external consultant. The management of ACRE blames this on the absence of any new developments and the lack of capacity due to the limited size of the staff. The management of ACRE declares that it is fully aligned with the requirements of Norfund and Takura on OHS since these are similar to the expectations of its target customers, i.e. oil and gas multinational corporations. ACRE's existing developments have already undergone several inspections by these companies.

ACRE's approach to human rights issues in its value chain is pragmatic. ACRE's management considers that in the areas where the company operates, most local contractors do not have the means to conform to international standards on ESG issues. It notes, however, that the presence of multinational corporations has had a substantial positive impact in recent years. It also considers that employment laws and regulations are enforced sufficiently well to minimise risks to workers' rights. ACRE does not systematically seek to ensure that its contractors respect these rights, but reports working with them to gradually build their capacity and awareness and bring them closer to the desired performance. However, these efforts are not supported by any framework, monitored or evaluated.

ACRE has been involved in land disputes and issues prior to Norfund's investment. In one case, the company had to relinquish a piece of land that was part of one of its DUAT but was also claimed by another party. In another case, it was sold a piece of land by a group of individuals who did not own it and acknowledged that they had deceived ACRE after they were put in jail.

The management of ACRE declares that it has strong relationships with local authorities, law enforcement services and community leaders.

ACRE does not have a formal grievance mechanism, be it for its workers or for external parties.

ACRE does not have a Human Rights Policy as such. The management of ACRE is not familiar with UNGP and considers that the main issue of relevance for ACRE from a human rights perspective is OHS. It considers, however, that a more systematic approach to ESG issues, based for instance on a checklist, would be useful for the company. At present, ACRE does not have such a checklist.

Key Findings

Norfund does not conduct routine inspections of existing ACRE development and does not revise its assessment of ESG risks. Its approach to ESG risks in this project is therefore

partly reliant on the initial investigation conducted by Takura Capital (which was not documented in a proper due diligence report) and on appropriate management and reporting by the company.

Norfund acknowledges that the implementation of the land law in Mozambique is less than adequate, in particular because of considerable shortcomings in official community consultations. Yet Norfund and Takura Capital did not engage directly with local communities or required any particular action from ACRE in this respect – beyond due process for future developments.

Within the ESG requirements formulated thus far by Norfund and Takura, value chain considerations are limited to occupational health and safety for subcontractors working on the building sites.

Annex 11: Arise B.V. (Norfund, Mozambique)

Context

Arise is a company jointly established by Norfund, the Dutch development finance institution FMO and Rabobank in 2016 to pool together the stakes that they held in financial service providers in Sub-Saharan Africa. The company started its operations on 1st January 2017 and is based in Cape Town (South Africa). Its original assets were estimated at USD 660 million, which the company aims to grow to USD 1 billion through new investments. The goal of Arise is to improve the availability of financial services in Sub-Saharan Africa by actively managing minority stakes in financial service providers. Arise has two assets in Mozambique, Banco Terra and Socremo, which were reviewed as part of this case study.

Arise's assets had ESG systems already in place when it was itself established. Arise has assessed these systems and elaborated a Work Plan for each based on the IFC PS, in particular with respect to workers' rights and lending. Companies report on environmental and social developments through an annual report, which forms the basis of Arise's monitoring.

Arise makes a quarterly report to its Board on its investments, as well as an annual report on ESG aspects and the impact of its activities on economic development. Norfund monitors these reports and maintains a dialogue with each investment manager. The alignment of Norfund and FMO on the same ESG principles (the IFC PS) ensures that their approach is strongly weighed in Board discussions and decisions.

Banco Terra

Banco Terra was established in 2006 as a joint venture between Rabobank, the German development finance institution KfW, Norfund and Gapi, a financial service provider in Mozambique. The aim of the joint venture was to develop a range of financial services geared primarily towards agricultural lending and rural development in Mozambique, with an initial focus on smallholders. However, this strategy has not been entirely successful, and Banco Terra has gradually reoriented its supply towards larger farms and a more general clientele.

Norfund's final approval document, dated 6 March 2006, and the Shareholders Agreement, dated 24 August 2006, do not make any mention of ESG risks or international human rights standards (including the IFC Safeguards)⁴⁰.

The management of Banco Terra declares that it is fully compliant with employment laws and provides additional benefits to its staff, such as additional maternity leave. As part of its human resource policy, Banco Terra also monitors the gender balance in its workforce, with an objective to reach 40% of female presence. There are currently no women in Banco Terra's Board, but according to the management, the issue is being discussed. The bank does not receive inspections from labour and health and safety authorities. 60% of its staff is unionised, and the bank has an internal whistle-blowing policy.

Banco Terra conducts legal due diligence with respect to its contractors and clients. Its internal policies include provisions for the exclusion of clients in case of negative environmental impacts, but aspects such as the client's respect for the rights of its workers or its relations with its subcontractors are not addressed. The management of Banco Terra declares that clients are visited at least once a year to verify their compliance with the law and with internal regulations. Clients receive advance notice of the visits, and in case of breaches, are given recommendations for corrective actions. The management does not report any cases of actual exclusion.

Banco Terra has a grievance mechanism for its customers that bypasses the bank's local branch.

Banco Terra reports to its Board quarterly on its credit portfolio and includes information on ESG incidents if relevant.

⁴⁰ The IFC Performance Standards were adopted in April 2006, replacing a set of Safeguard Policies that had been established between 1986 and 1998.

Socremono

Socremono is a microfinance institution established in 2009 by the Africap Microfinance Investment Company, based in Mauritius, Nordic Microcap Investment AB, based in Sweden, the Mozambican Directorate of Treasury and Norfund. Socremono has developed to become the second provider of microfinance in Mozambique and has started to diversify its portfolio towards the SME sector.

Socremono's Shareholders Agreement, signed on 11th November 2009, shows a substantial evolution in Norfund's investment policy in comparison with the Banco Terra case. The agreement contains anti-corruption and anti-money laundering provisions, establishes a list of excluded activities (including activities involving child labour or forced labour, trade in wildlife, the production or trade in wood products from unmanaged forests, etc.) and requires Socremono to identify and manage social and environmental risks and to prepare an annual Environmental and Social Performance and Development Report using the IFC PS as a benchmark.

Socremono's credit and deposit policies, as those of other financial institutions, are submitted to regulations and oversight from the Central Bank of Mozambique and international guidelines. Socremono conducts a due diligence and monitoring of its customers' compliance with national laws through inspections. Three types of inspection visits are made:

- ✓ Before the credit decision is made, a credit advisor visits the loan applicant and collects information on the project on the basis of a checklist. If the investment is approved, a risk verifier makes a second visit, also based on a checklist that covers business, environmental and social risks. Applicants do not receive an advance notice, and risk advisors do not have to notify credit advisors about their visits. The risk verifier establishes a report and makes a recommendation to accept, reject or suspend the application. Rejection must be justified by serious shortcomings. Common weaknesses in applications lead to a suspension, and the applicant is then proposed to implement corrective actions.
- ✓ Follow-up and monitoring visits are made on a regular basis (at least 10 clients are visited every month) and cover ESG aspects.
- ✓ Special visits are made in case of payment delays to investigate whether credit conditions have to be modified.

Socremono has a client hotline and also receives grievances by email. It identifies about five cases of wrongdoing by credit advisors or risk verifiers (falsification of documents, attempts at bribery) per year, out of about 1500 new loans. In such cases, Socremono's employment policy provides for the immediate termination of the employee's contract.

Socremono has a policy to provide equal access to credit to both genders, and has developed a specific product for women who have difficulties in providing guarantees. The current composition of its clientele is 43% of women, 45% of men and 12% of companies. Socremono is also working to improve physical access to its offices for pregnant women and disabled persons.

About half of Socremono's workforce is unionised, and the company's trade union is affiliated with the national union for bank workers. A majority of the staff is female, which is uncommon in the banking sector.

Socremono's quarterly report to its board includes a risk section in which ESG issues can be included if relevant.

Key Findings

Norfund invested in Banco Terra in 2006 and in Socremono in 2009. Norfund seems to have substantially enhanced its requirements with regard to ESG performance between these two decisions. In 2016, both stakes were transferred to Arise.

Banco Terra and Socremono both have well developed human resources policies, in particular regarding union rights. Socremono seems more active in promoting gender equality, while Banco Terra has a formal whistle-blowing policy.

Socremono's approach to supply chain requirements seems more comprehensive and better established than Banco Terra's – a fact that can be considered surprising given their respective activities and clienteles. The

difference of approaches to the monitoring of clients seems rooted in the two companies' initial shareholders' agreements, thus in the evolution of ESG requirements by Norfund and other investors.

It therefore appears that Norfund has not sufficiently upgraded its ESG requirements from Banco Terra through the years. It remains to be seen if Arise will be more successful in the harmonisation of ESG approaches across its portfolio of assets.

Annex 12: Scatec Solar – Mocuba Solar Project

(Norfund, Mozambique)

Context

The sections with introductory text and findings are part of the main evaluation report but repeated in this annex for a holistic case project read.

The Mocuba Project is aiming at developing the first large scale solar plant to be built in the country. The plant will have an expected capacity of 30 MWac (40.5 MWp) to be developed as an independent power producer, with the project company, CESOM (*Centro Solar de Mocuba*), selling power under a 25-year Power Purchase Agreement to the Mozambican Electricity Company (EDM – *Electricidade de Moçambique*).

Scatec Solar will be the majority investor with a stake of 52.5%; EDM will take a 25% stake; and KLP Norfund Investment AS the remaining 22.5%. The project will be financed on a non-recourse project finance basis, with International Finance Corporation (IFC) appointed as lead arranger and underwriter.

The development effects of the project are intended to swiftly add reasonably priced power in a part of the system with little energy and add much needed foreign direct investment into Mozambique. This is also aimed to be a first step in realizing Mozambique's ambition to increase renewable power generation.

The process has taken longer than anticipated as the plant was initially expected to be operational end of 2016. There are various influencing factors for this delay, including the financial status of EDM with high debt, environmental impact assessments, obtaining required licenses. In addition to the process of obtaining land concession and compensation for economic displacement..⁴¹ The construction is expected to initiate in March 2018, with a duration of 11 months.

Due diligence in the planning and start-up

In addition to an ESG due diligence, Norfund has done financial and commercial, legal and integrity, and technical and insurance due diligences. Their risk assessment rated the Mocuba project with overall "high risk". The ESG risks were also rated high due to: "Complicated replacement land allocation process combined with large number of project affected people and numerous long-term E&S obligations."⁴² Scatec has risk assessment and mitigation plans as part of their SSO Operation System.⁴³

Scatec Solar operates after the Equator Principles and IFC performance standards. These standards are required by IFC and Norfund as investors. The due diligence processes carried out and in the pipeline are:

- ✓ The consultancy Environmental Resources management (ERM), in partnership with *Projectos e Estudos de Impacto Ambiental Lda* (Impacto), were contracted to carry out a Simplified Environmental Study (SES) for the proposed construction and operation of the Mocuba Solar Power Plant.⁴⁴ ERM assessed the physical components, such as climate, soils, biological, wildlife, vegetation, and hydrology, whilst Impacto focused on the socio-economic aspects.⁴⁵
- ✓ The SES included an impact assessment and identified mitigating measures described in an Environmental Management Plan for the main issues identified. The Plan included "...requirements for management on site of the environmental and social aspects, during the construction, operation and decommissioning of the Project."⁴⁶

⁴¹ Meeting with CESOM in Maputo 24 January.

⁴² Final approval document.

⁴³ Scatec OS Description.

⁴⁴ SES non-technical summary.

⁴⁵ Meeting with Impacto in Maputo 26 January 2018.

⁴⁶ SES non-technical summary.

- ✓ CESOM made project decisions on the basis of the SES input and feedback from the assessments.
- ✓ The assessment of the positive impacts, focused on the social component of the project with potential job creation, improvement of local economy, more settlers to the area and fiscal income. On the other hand, the main negative impacts identified related to occupation of 126 ha used for farming plots (*machambas*), potential erosion due to vegetation clearance, increase of sediment in water lines, impeding movement in the area due to site fencing, change to the local landscape, impacts on animals and potential traffic accidents due to construction traffic.⁴⁷
- ✓ The SES identified 215 households in the project area. The land needed for the solar plant construction was not habituated but used for small-scale farming by the locals living in the area, thus, a question of compensation for economic displacement.
- ✓ Part of the mitigating actions included the preparation of a compensation plan that would compensate any losses of physical assets in the area, and the provision of replacement land to continue their agriculture.
- ✓ The government had already identified the land for the solar plant before Norfund and Scatec Solar came into the project. However, some of the land identified by the government was not a good alternative, for instance in the *Igaru* area, where the community had not been consulted.⁴⁸ Consequently, CESOM, together with Impacto, the provincial government and the village, had to look into different land alternatives.
- ✓ Several community consultations were carried out in both *Mugonda* (including *Bive* and *Muandua* settlements) and *Samora Machel* communities. Invitations, attendance lists, questions and answers are well-documented.
- ✓ As part of the SES, Impacto identified the most vulnerable groups, including elders, widows, and disabled, that were given priority to the first land area that was provided, due to its proximity to the urban centre.
- ✓ In 2017, they found land from a local entrepreneur for the 160 remaining families (the first group had already been allocated parts of the land identified by the government). This meant that the new land plots provided would split the village in two. This was, however, accepted by the local community and local transport, such as bicycles have been provided. An additional community meeting was also held in the new area. The people are still living in the same place as before, so it is their farming plots that have been moved. A result of some of the agricultural land being far away, some areas are up to 40 km away, family members go to the land and stay for seeding and harvesting seasons. CESOM said that the families stay in the city with access to schools and health facilities. Some have requested a shelter to stay in on a seasonal basis.
- ✓ The compensation plan included visits to all affected families, collection of data of the land they have been using per household, their crops, fruit trees, and so forth. The Simplified Land Use and Compensation Plan (SLUCP) was finalised in 2016 after providing compensation for all the households.⁴⁹ Impacto carried out the payment procedures ensuring that all family members were represented and agreeing on the payments.
- ✓ CESOM is trying to get land entitlement deeds, DUATs, for the people living in the affected area since they traditionally have no papers. They have currently managed to obtain 52 certificates. They are still working on this and estimate to be done with DUATs by end of February.⁵⁰
- ✓ A livelihood restoration plan (LRP) was developed to make a plan for affected families to reach the stage to have equal livelihood as they had, or better. In January 2018, they have not reached the full implementation of the plan, but 75 %. An aspect of the LRP, is to ensure training for the local community in agricultural training. CESOM contracted the NGO ADRA Mozambique (the Adventist Development and Relief Agency) to assist in agricultural training to ensure food security, continuation of agricultural activities, alternative business development and savings schemes for the local community. CESOM is currently discussing a second agreement to provide other trainings. These trainings include alternative

47 SES non-technical summary.

48 Interview with Norfund in Oslo 12 February 2018.

49 SLUCP close-out report 2016.

50 SES non-technical summary.

business ideas for those that are not capable of doing agriculture, and how to invest compensation and set up saving schemes. The trainings are voluntary and not everyone wish to attend. They tend to have a good turn-out.

Due diligence in implementation

The compensation process has been finalised and there are some elements remaining in the livelihood restoration plans, as mentioned above. Most of the benchmarks set by the IFC have been met and the construction is expected to get a green light soon with start in March 2018.⁵¹ Norfund and Scatec are represented in the Board overlooking the project. The following monitoring and reporting measures are in place and in the pipeline:

- ✓ Scatec, Norfund, CESOM and IFC have had bi-weekly meetings in the start-up period of the project for updates and next steps.
- ✓ During the due diligence process, ESG specialist from Norfund visited twice. The IFC has also carried out two visits.
- ✓ IFC is following the action plan of the Mocuba project and monitor the set deadlines. They can also do visits.
- ✓ CESOM has a Community Liaison Officer (CLO) in Mocuba with a responsibility to monitor all activities to make sure it is carried out in a proper manner and to keep good relations with the local government. She follows the livelihood restoration plan and provide bi-weekly reporting to Scatec and Norfund.⁵²
- ✓ ADRA is engaged to train and implement the livelihood restoration plan. They report bi-weekly and quarterly.
- ✓ For the construction phase, the CLO will continue the monitoring and the consultancy, IBIS, will also be contracted for this purpose, in addition to resources from the contractor side. Requirements for working conditions and third party working conditions are established in project documents.⁵³
- ✓ The persons affected by the project (PAPs) are prioritised for employment for the construction work. Part of the construction phase is intended to be beneficial for PAPs and local community through training and skill development.⁵⁴
- ✓ Procedures and risk assessments are part of the Scatec Operating System (their ESMS). The system covers all segments where Scatec is involved and indicate different risks for different phases. Some parts are also handled more by contractors.⁵⁵
- ✓ A Technical Working Group was established in 2016 with participation of local government officials, community leaders and representatives of the PAPs. Some of the main objectives for the Group include being present at the compensation process for local community involvement, and receive preoccupations from the communities, document and follow the grievance procedures.⁵⁶

Grievance mechanisms are included in project plans with different levels and channels. Scatec Solar has a public platform where anyone can reach a grievance for anyone. The public grievance mechanisms is available in several languages, including Portuguese. The grievances go to an independent consultant and it depends on the gravity whether the issue is immediately raised to their Global Human Resources in Norway. In the Mocuba project, there is a project specific grievance mechanism that has been communicated to the communities.⁵⁷ PAPs are given a form to file a complaint on behalf of community members. A Grievance Mechanism Committee is established with four persons from the project. The Committee has weekly skype-meetings to follow up on ongoing grievances, new grievances and to update

⁵¹ Meeting with CESOM in Maputo 24 January 2018.

⁵² Interview with Norfund project team in Oslo 12 February 2018.

⁵³ Sub-EPS Mocuba – Labour and CSR requirements.

⁵⁴ Telephone Interview with Scatec Solar South Africa and Oslo 13 February 2018.

⁵⁵ Telephone Interview with Scatec Solar South Africa and Oslo 13 February 2018.

⁵⁶ SLUCP close-out report 2016.

⁵⁷ SLUCP close-out report 2016.

the grievance database.⁵⁸ The bi-weekly CLO reporting will also include grievances. In the construction phase, there will be a grievance mechanism for the workplace.⁵⁹

- ✓ Grievances reported this far: Failure to recognize the individual plot and claims that they had land and want compensation. Impacto has verified and followed up procedures providing compensation for the assets in the project area. Another example, is reduction in fertility of the soil after the area clearance. These allegations have been investigated by a consultant with soil sampling and mitigating measures have been made to make it suitable for agriculture again.⁶⁰

Findings

- ✓ Norfund's risk assessment rated the Mocuba project with overall "high risk". The ESG risks were also rated high due to: "Complicated replacement land allocation process combined with large number of project affected people and numerous long-term E&S obligations."⁶¹ Scatec has risk assessment and mitigation plans as part of their SSO Operation System.⁶²
- ✓ The project preparation has been a long process but seems to have been conducted in a good manner with impact assessments, community consultations, third party assessments and development of compensation and livelihood restoration plans. The project preparations have been implemented by CESOM and Scatec, and required and monitored by Norfund and IFC.
- ✓ 215 affected households were identified in the impact assessment. Finding replacement land has been difficult. The land challenges were detected in the risk assessment but the extent of the challenges was underestimated. The land was already identified by the government, but not adequately assessed in terms of sufficient community consultations and the quality of the land. The project team, thus, had to carry out much of this process together with environmental consultancies.
- ✓ The project team seems to have overcome difficulties in finding alternative agriculture land, by themselves engaging with the provincial authorities, the community, assistance from Impacto and other stakeholders in the area.
- ✓ Several community consultations were held and have been documented in *Mugonda* and *Samora Machel* communities. The Simplified Land Use and Compensation Plan (SLUCP) was finalised in 2016 after providing compensation for all the households.⁶³
- ✓ The Livelihood Restoration Plan (LRP), and an augmented version of it, was developed to make a plan for affected families to reach the stage to have equal livelihood as they had, or better. In January 2018, they had implemented 75 %. The NGO ADRA Mozambique is contracted to provide agricultural training for the local community.
- ✓ For monitoring, Norfund and Scatec are part of the Board, they have a Community Liaison Officer (CLO) in Mocuba. And for the construction phase, IBIS will be engaged to monitor.
- ✓ The CLO reports bi-weekly following the LRP implementation and grievances in the community. ADRA reports on the LRP progress as well.⁶⁴
- ✓ Several grievance mechanisms are in place: 1) Scatec website mechanisms (available in Portuguese), 2) Project Specific mechanism with a Grievance Mechanism Committee, 3) Workplace mechanism (upon construction initiation). A Technical Working Group has been established for community representation and to assist in receiving grievance documentation.⁶⁵

⁵⁸ E&S Memo, March 2017.

⁵⁹ Sub-EPS Mocuba – Labour and CSR requirements.

⁶⁰ Telephone Interview with Scatec Solar South Africa and Oslo 13 February 2018.

⁶¹ Final approval document.

⁶² Scatec OS Description.

⁶³ SLUCP close-out report 2016.

⁶⁴ Norfund documents for on-going reporting.

⁶⁵ SLUCP close-out report 2016.

Annex 13: Tilapia Value Chain Development (RNE, Mozambique)

Context

The sections with introductory text and findings are part of the main evaluation report but repeated in this annex for a holistic case project read.

Tilapia Value Chain Development is a pilot project for fishery development for producers and private sector in Mozambique. The main project agreement was signed November 2016. The agreement is between the RNE on behalf of the Ministry of Foreign Affairs and the project implementer the Norwegian NGO, the Royal Norwegian Society for Development - *Norges Vel*. The Pilot Project Phase is from 2016 to 2019. Norges Vel cooperates with technical consultants and the local partner Papá Pesca. The agreement with Papá Pesca was signed March 2017. Papá Pesca is a small family-driven farm funded by Pieter de Klerk and Kristina Abudo de Klerk and is situated in Hókwe village in the Chókwè region.

The project focuses on local community enhancement by testing: 1) tilapia production/farming, 2) markets/sales for profitability, 3) a model for sustainable organisation of the tilapia supply/value chain for small/medium size producers and SMEs in Chókwè. The latter is intended to take form as a cooperative/integrator, with Papá Pesca and SMEs supported through training, to develop and further implement the project by playing the role as an integrator for the tilapia farming supporting the grow-out of more producers with a focus on targeting local producers and SMEs.⁶⁶

As part of the project, the first group of 8 trainees have been selected (equal balance between women and men) of Chókwè village to be trained to become small producers. They get on-site training from the pilot.⁶⁷ The trainees are intended to become members in the integrator and with a long-term aspiration to receive assistance to become individual farmers or operate in cooperatives/associations.

For the Pilot Project, Papá Pesca will receive a total of NOK 8.333.855 in funding (23.11.2016 – 22.05.2019). The funds in general terms will include project implementation costs, training, operationalisation and production, maintenance and security for ponds/production, SME support/development, establishment of a cooperative/association.⁶⁸ Papá Pesca is giving the project the right to use up to 50 ha of his land to develop and operate the planned 18 ponds.⁶⁹ The total budget for the pilot project is NOK 19 059 000.⁷⁰

Due diligence in planning and start-up

The decision to initiate the project was made by the Embassy with technical support from Norad. The Embassy had good experience working with Norges Vel in Mozambique and Norges Vel's has experience with their tilapia project in Madagascar. During the initiation of the pilot project, several due diligence processes have been carried out:

- ✓ Norges Vel was advised by Norad/the Embassy to be more specific in their risk matrix presented as part of the project application.⁷¹ The risk factors were not specifically worded as human rights but included risks in relation to HMS, employment access for women and youth, climate and environmental effects, with subsequent mitigating actions.
- ✓ Papá Pesca, together with the environmental consultancy Enviestudos, finalised in June 2014 an Environmental Impact Assessment, as required by Mozambican law. The environment permit for

66 From agreement between Norges Vel and Papá Pesca.

67 Meeting with training responsible and trainees in Chókwè 29 January 2018.

68 Budget annex to the agreement between Norges Vel and Papá Pesca.

69 From the agreement between Norges Vel and Papá Pesca.

70 From MFA website, Tilskuddsportalen.

71 Final revised external risk assessment from Norges Vel to the Embassy, October 2016.

aquaculture in Chilembene-Hókwe locality was issued in June 2015, and the aquaculture permit in May 2016. These processes were done prior to entering into the agreement with Norges Vel.

- ✓ For the land concession process, three public meetings were held in Hókwe community. The consultations were publicly announced in the newspaper and invitations sent out to several civil society organisations. After starting construction of the farm, another person came claiming the customary right to the land. It turned out that the property had a border between two communities. This opened up for a new community consultation in the neighbouring community, Kulsane. The land concession was given to Papá Pesca from HICEP⁷² with a 30-year renewable lease agreement, starting 16 April 2014. The land has not been used for agriculture for years due to the salinized soil.
- ✓ Contractual requirements for cross cutting issues are included in the contract between the Embassy and Norges Vel. These are also included in the sub-contract between Norges Vel and Papá Pesca, in addition to Norges Vel's ethical guidelines.

Due diligence in implementation

- ✓ Overall monitoring and follow-up are included as benchmarks in the work streams in Norges Vel's project implementation plan.⁷³
- ✓ Monitoring is done by the Embassy through biannual meetings and reporting, this can include discussions on human rights as a cross-cutting issues.
- ✓ Reporting from Papá Pesca feeds into the report from Norges Vel to the Embassy. Embassy requirements have been copied into the reporting template to Papá Pesca.⁷⁴
- ✓ Papá Pesca ensures that the working conditions, for both the chicken and tilapia farming, are according to domestic law. All employees, permanent and temporary, are given contracts, also the tilapia trainees. The contracts, vacation request forms and employee relations are well-documented and kept in archive.⁷⁵ Salaries are higher than average, the employees have insurance through monthly payment to the National Social Security and maternity and sickness leave.
- ✓ The Papá Pesca administration provides a brochure with information about the worker's union and their rights and duties. Many of the employees are interested in being part of the union but back out when they have to pay a monthly fee, so not many are unionised.
- ✓ The trainees have long working hours for the trainee period of 4 months. The trainees live on site since the tilapia need to be fed regularly and the trainees have responsibility for two pounds each. The feeding schedule is seven days a week. This is clearly communicated in the recruitment process, during interviews and in the contracts. If there is a need to go somewhere, they can easily ask for permission and ensure that someone else covers for them while being away. They are not subtracted from their stipends for this time. Family is allowed to live on site with them but are financially under the responsibility of the trainees.⁷⁶
- ✓ Papá Pesca is mostly employing women due to experiences with them having better work moral and responsible work commitment. There are women also in supervising positions in the chicken farm of the business. For the tilapia trainees there is a 50-50% gender balance with four women and four men. They have a focus to recruit workers locally.
- ✓ Papá Pesca provides protective gear for construction and the chicken farm, so the workers are provided with all necessary gear. According to the tilapia trainees, they have asked for protective gear for working in the ponds as well, but it takes time to get because the budget restrictions for the tilapia project are rigid.⁷⁷

⁷² Hidráulica de Chókwe – the Hydraulic Company for the town of Chókwe.

⁷³ From annex 3 to the project application – implementation plan.

⁷⁴ Interview with Norges Vel in Oslo, 13 February 2018.

⁷⁵ Demonstrated during field visit 30 January 2018.

⁷⁶ Trainee group interview 29 January 2018.

⁷⁷ Trainee group interview 29 January 2018.

- ✓ Papá Pesca has HMS posters for cleaning procedures and biosecurity on the farm. They do not have internal guidelines in place for other environmental and social aspects. The trainees learn about health and safety when working in the ponds as part of the practical training.
- ✓ The local authorities do frequent checks on administrative, finance, labour conditions, and housing. They are perceived as a foreign company and many times they are asked for small bribes. Papá Pesca has a strong focus on compliance and zero tolerance for bribes which can result in bureaucratic processes and delays.⁷⁸
- ✓ Papá Pesca does not have a specific grievance mechanism for the employees. Instead, they have a supervisor system with a channel of communication so that challenges and issues come back to management. The human resource personnel follow up on issues and verify with both sides if a dispute occurs.⁷⁹ Norges Vel mentioned that Papá Pesca has drafted a sexual harassment policy after an incident between a male and female workers in the workplace (not Tilapia project staff or trainees).
- ✓ Norges Vel and the technical consultant from Frost visit regularly, including progression status. These visits allow for re-assessment of risks and project activities, if need be.

Findings

- ✓ Environmental Impact Assessment, environmental and aquaculture licenses and community consultations were carried out by Papá Pesca, assisted by *Enviestudos* consultancy, prior to contract signing with Norges Vel. This is usually a two-year process. The consultation process appears to have been anchored in the local community and the local authorities, with 4 community consultations. The public meetings were announced broadly. A new round of consultations was done after new information came up from a neighbouring community.⁸⁰
- ✓ Papá Pesca focuses on the relations with the traditional leaders. They have involved them in many of their decision-making processes. During a meeting with community leader for the Hókwe community, the leader confirmed this. Papá Pesca creates employment opportunities for the local area and has provided water access to 100 families close to the farm.
- ✓ The head of the tilapia training requested to set the training on hold due to lack of adequate housing and living conditions by the ponds in the beginning. Once the conditions had improved, the training continued and the trainees moved back in.
- ✓ Working conditions follow domestic law and more seems to have been done by Papá Pesca to ensure adequate working conditions, including information on worker's union and HMS procedures, than specifically required by Norges Vel and the Embassy. Some delays on getting protective gear to the trainees due to rigid budget framework.
- ✓ The trainees are contracted for 4 months and live on site with long working hours for seven days a week. On average, they spend 2h/day preparing food and feeding, 1h/day preparing fertilisers and fertilising, 2h/day doing general maintenance around the ponds, and 1h/day with the theoretical part of the training. The feeding schedule goes from feeding 6x/day every 2h in the first week to feeding 2x/day from the 11th week to the end of the grow out. The trainee contracts state that this is for training purposes and they receive a stipend of 3700 *metical* monthly, which is slightly over minimum wage for the sector.
- ✓ There was a case of mass redundancy where 82 workers were fired. Papá Pesca got a signal from Norges Vel to stop all construction due to project implementation delays and lack of progress.⁸¹ Those that got laid off were temporary employed for construction related to the pilot project. The workers were given a 15 day notice, with clear reasoning, expectations to hand back equipment and the notification was signed by the workers. The notification was handed in writing, in their language and explained to those that are illiterate. Management and the human resources explained that notifications were in line with national labour legislation. Construction work is generally only on temporary contracts.

⁷⁸ Interview with Management 30 January 2018 Papá Pesca management.

⁷⁹ Interview with human resources, Papá Pesca management and administration staff 29 January 2018.

⁸⁰ Interview with Papá Pesca management in Chókwe 29 January 2018 and meeting with Hókwe community leader.

⁸¹ Email from Norges Vel stated that project meetings in end of January 2018 has established a new timeline for project deliveries.

- ✓ There is no specific grievance mechanism in place for the employees. Instead, they have a supervisor system so that challenges and issues come back to management. The human resource personnel follow up on issues and verify with both sides if a dispute occurs.⁸² Norges Vel mentioned that Papá Pesca drafted a sexual harassment policy after an incident between a male and female workers.

⁸² Meeting with human resources, Papá Pesca management and administration staff 29 January 2018.

Annex 14: World Bank – Mozambique Transmission

Development Programme (RNE, Mozambique)

Context

The sections with introductory text and findings are part of the main evaluation report but repeated in this annex for a holistic case project read.

In 2007, the Royal Norwegian Embassy in Mozambique (RNE) initiated discussions with the World Bank regarding the establishment of a single donor trust fund called "Power Infrastructure Projects of Regional Importance in Southern Africa". The agreement between RNE and the International Development Association (IDA, World Bank), was signed 9 September 2009 with 31 December 2013 as project end date.⁸³ It was decided that the Norwegian contribution would be NOK 500 million divided into two projects, namely:⁸⁴

1. The Mozambique-Malawi Transmission Interconnection. This project has two components:
 - a) A transmission line from the hydro power plant Cahora Bassa in North-west Mozambique to Malawi
 - b) Continuation from the receiving destination in Malawi back to North-eastern part of Mozambique
2. The Mozambique Regional Transmission Development Programme (Backbone, former called CECUL, now STE – *Sistema Nacional de Transporte de Energía*)⁸⁵

The projects have been delayed, mostly due to changes in the political leadership in Malawi. The trust fund has had several no cost extensions, the last prolonging the agreement until 2019.⁸⁶ Despite delays, RNE supported extension since construction soon seems to start, and they stressed the need for Norway to commit to the agreement with the World Bank.⁸⁷

The objective of the programme is to construct power plants and connect people to electrification. An aim is that the communities will pay for the services but not for the connection and construction of the transmission line.

Due diligence processes in planning and start-up

The World Bank is responsible for the due diligence of all studies and projects, including the ownership structure of the companies.⁸⁸ The EDM has a policy for environmental management, including environmental and socio-economic issues, such as salary, benefits for the people, rights of citizens, infrastructure, health, reflection of, and adherence to, Mozambican law. EDM has also implemented a gender policy.

The trust fund is being monitored according to the World Bank Safeguard Policies, the Environmental and Social Framework, and the Equator policies on sustainable development, natural habitats, child work and indigenous population.⁸⁹ The World Bank requirements for social safeguards focus on both development and construction phases. The Embassy stated to have good experience working with the World Bank and

⁸³ No cost extension agreement, 2013

⁸⁴ E-mail from Royal Norwegian Embassy in Maputo: Oppdatering Norsk Trust Fund I Verdensbanken, 2014

⁸⁵ Ibid.

⁸⁶ No cost extension agreement, May 2017

⁸⁷ Email reporting from the Embassy to the MFA, 2017

⁸⁸ Email reporting from the Embassy to the MFA after WB second appraisal mission, June 2009.

⁸⁹ The World Bank Environmental and Social Framework

their project implementation. In the planning phase of the projects, various due diligence processes have been carried out and some are in the pipeline:

- ✓ The MFA Appropriation Document for the World Bank Trust Fund was signed 01.09.2009. There is no section for cross-cutting issues since this is an old template, but section 5 includes considerations of environmental and social aspects.⁹⁰ The no cost extensions do not require a new decision document, this is only the case when granting new funds.
- ✓ An Environmental and Social Impact Assessment (ESIA) was carried out for the programme by the consultancies CSDS and Mott McDonald in November 2011. The assessment was revised after feedback from the World Bank and donors.⁹¹ The social analysis in the ESIA concluded that the displacement and dispossession is very limited.⁹² Regarding the environment, the analysis concluded that the project "will not cause any major or irreversible environmental impacts in Mozambique or Malawi".⁹³
- ✓ An updated ESIA has been completed and the reports are at the late approval stage, expected to be done by June 2018.⁹⁴
- ✓ Three community consultations have been carried out and EDM invited all the communities affected, public and private companies, NGOs, all the relevant government and provincial organs. The donors reiterated the importance of NGO presence at the consultations. The consultations resulted in changes, for example, in Tetê province they re-routed the transmission line in order to avoid trespassing in urban development areas.⁹⁵
- ✓ EDM has had consultants assessing the development plans: an engineer looking at technical aspects, and another assessing the social impact of the preliminary plans. On-site visits for verification and feedback from community consultations resulted in various rounds of changes from the initial plans.⁹⁶

Due diligence in implementation

Electricity Supply Corporation of Malawi Limited (ESCOM) and EDM will be responsible for the implementation of the projects. A three-level process has been implemented to coordinate: at the governmental level, at management level, and at the operational level. At the governmental level, a joint project steering committee has been established, consisting of senior staff from the Malawi and Mozambique side, together with ESCOM, EDM, the Embassy and the World Bank. The steering committee will meet regularly and discuss issues that need to be resolved at the governmental level. At the management level, a joint project coordination committee is responsible for project coordination and drafting procurement documents. At the operational level, there will be a project management unit (PMU) consisting of ESCOM, EDM, and the design and supervision consultants. The PMU is responsible for project management, project engineering, social and environmental specialists, financial management, and technical specialists.⁹⁷

Planned systems and mechanisms for monitoring are:

- ✓ EDM received recommendations from an assessment done by a Canadian consultancy, to employ monitoring and reporting experts for follow-up throughout the implementation phase (specialists in respective areas: environment and social safeguards). The donors support the employment of these specialists.⁹⁸

⁹⁰ Appropriation document, 1 September 2009.

⁹¹ Archive search at the Embassy 1 February 2018.

⁹² Project Appraisal Document from the World Bank, June 2007.

⁹³ Project Appraisal Document from the World Bank, June 2007.

⁹⁴ Steering Committee meeting minutes, February 2017.

⁹⁵ Interview with EDM in Maputo 31 January 2018.

⁹⁶ Interview with EDM in Maputo 31 January 2018.

⁹⁷ Project Appraisal Document from the World Bank, Annex 6: June 20 2007

⁹⁸ Interview with EDM in Maputo 31 January 2018.

- ✓ A consultancy will be engaged to develop plans for land compensation. EDM stated that the World Bank and donors are reluctant to support the compensation payments.⁹⁹ The Embassy was not aware of this issue.
- ✓ The World Bank will monitor and follow procurement processes and safeguards once the project is active. During construction, the World Bank has strong supervision and follow-up. The ESMS covers the operational period and sets requirements.
- ✓ As a standard, grievance mechanisms are housed by the borrower and all projects are obliged by the World Bank to have 1 grievance mechanism, with the new ESFs, there is a need for 2; 1 for workers and 1 for others affected. EDM informed that they have plans for a complaint commission with community representatives. The locals were informed about this mechanism in the community consultations. The commission will be more active when the resettlement plan is implemented.¹⁰⁰
- ✓ The rights for workers follow local laws, both in terms of rights and grievance mechanisms. According to the World Bank, the contractor is obliged to adhere to local laws. If they do not comply, they have established channels to address grievances or violations.
- ✓ The World Bank said that they were not able to control everything *ex ante*, but that they need to have grievance mechanisms for identifying issues of concern. They are therefore focusing on an effective safety net rather than continuous controls. On worker's rights the World Bank say that they cannot have 100 % control but note that they have not received major complaints.
- ✓ On the management and re-assessments of the trust fund, the World Bank, has systematic re-assessments of projects and related risks every six months. They have more than two project visits each year and follow up with grievance mechanisms frequently. Upon discovery that project activities are more risky than assumed, the plans are revisited.¹⁰¹

In terms of reporting, there are frequent mission (*aide memoire*) and progress reports. The Steering Committee is operative and meet to discuss work plans and allocation of resources concerning the trust fund, on a regular basis. IDA does reporting of progress and results, priorities, budgets for the following six months, issues of special concern, and how to manage risks semi-annually. The administration of the trust fund is based on transparency, accountability, good governance and anti-corruption, and if any of these standards are ignored, IDA shall report to the donor immediately.¹⁰²

Findings

- ✓ The World Bank is responsible for the due diligence of all studies and projects, including the ownership structure of the companies.¹⁰³
- ✓ The trust fund is being monitored according to the World Bank Safeguard Policies, the Environmental and Social Framework, and the Equator policies.¹⁰⁴ The World Bank requirements for social safeguards focus on both development and construction phases.
- ✓ The Embassy and the MFA seem to have followed the process but left the World Bank to ensure due diligence, social safeguards and environmental requirements.
- ✓ An ESIA has been conducted and re-visited. The updated version will tentatively be published July 2018. The first impact assessments concluded that there will be little resettlement. Community consultations have been carried out. The work to set up a resettlement plan has not yet been finalised. The EDM expressed a concern that the World Bank and donors have signalled that they are not willing to pay the

⁹⁹ Interview with EDM in Maputo 31 January 2018.

¹⁰⁰ The exact structure of members, procedures and meeting frequency will be determined. The report from the Canadian consultancy included recommendations on setting up grievance mechanisms, social and environmental experts to monitor and report, and work with a NGO to speak on behalf of the communities.

¹⁰¹ Interview with World Bank Group in Maputo 23 January 2018.

¹⁰² Agreement between Norway and IDA Concerning the Single Donor Trust Fund for Norway's Support to the Regional Power Infrastructure Projects in Southern Africa, 9 September 2009.

¹⁰³ Email reporting from the Embassy to the MFA after WB second appraisal mission, June 2009.

¹⁰⁴ The World Bank Environmental and Social Framework

compensation to the local communities and that this should be paid by the Mozambican government.¹⁰⁵ The Embassy was not aware of this.

- ✓ The Embassy has had frequent dialogue and contact with the World Bank. The Embassy has also regularly reported back to the MFA on challenges and updates.¹⁰⁶ For human rights concerns, the project officer at the Embassy states that she has good contact and possibility to request more information if needed. The World Bank confirms the close dialogue with the Embassy. Further, the World Bank has pushed for a focus on ensuring connection for the beneficiaries. In the past, Norway has focused more on cost efficiency.
- ✓ The focus on value chain is a contentious issue. The World Bank is working on this through their ESF revision and believe that it will have more focus in the revised version. The World Bank follows the process systematically and on a regular basis, although they claim to have more emphasis on ensuring a solid safety net for following up complaints, rather than excessive supervision.
- ✓ There is no template for operationalising the social safeguards but some best practices such as community forum for discussions on project challenges are emerging.
- ✓ In terms of reporting, there are frequent mission (*aide memoire*) and progress reports, as well as Steering Committee meetings.
- ✓ Monitoring experts and grievance mechanisms are not operational yet since the construction work has not started.

¹⁰⁵ Interview with EDM in Maputo 31 January 2018.

¹⁰⁶ Archived emails assessed as part of archive search in Maputo 31 January 2018.

Annex 15: Strengths and weaknesses - the right to use and benefit from land in Mozambique - DUAT

Considerations on the land law in Mozambique written by Joao Nhampossa.

Overview

In Mozambique, the Constitution and the land law determine that land may not be sold or otherwise disposed of, nor may it be mortgaged or subject to attachment. The practice of selling land is a crime according to the Penal Code. However, the Constitution of the Republic and the land law recognize and protect the rights of citizens and local communities that have occupied the land through costume or customary practices or acquired land through inheritance (article 111 of the Constitution and article 12 of the Land Law).

According to article 24 of the Land Law, local communities in rural areas participate in the management of natural resources, the resolution of conflicts, the DUAT (*Direito do Uso e Aproveitamento da Terra*, equivalent to a land lease) titling process, and in the identification and definition of the boundaries of the stretch of land under a DUAT.

Local communities have been given the freedom to use the land through generations under the control of traditional and community leaders. The formal law acknowledges the customary law but in case of conflict, the formal law prevails. The formal law sets forth several requirements where the local communities need to be consulted, the procedures that have to be followed, as well as steps for compensation and remedy in resettlement and economic displacement processes.

In practice, on the other hand, there are many instances where the processes of community consultation for the right to use the land are not adequately carried out. Some of the issues are:

- ✓ Situations where citizens, including local communities, see their land used and sold to others with considerable economic power, which has led to many land conflicts, with difficult means of settlement, due to the complexity and lack of clarity of the protection of DUATs.
- ✓ The unconstitutional practice of buying and selling land is common and can involve agents of the public administration who are in charge of preventing and sanctioning it.
- ✓ The lack of supervision and the inefficiency of public services encourage the practice of corruption in to illegally buy and sell land.
- ✓ The Land Act incorporates rules prohibiting acts that threaten landowners' rights, but the mechanisms of protection are unclear, ineffective, and provide room for delaying manoeuvres that facilitate systematic DUAT violations.
- ✓ The requirements for the calculation of compensation plans (*lucros emergentes and cessantes*) are unclear.

The land disputes have created a need for increased cooperation among civil society organisations to support local communities and monitor consultation processes. Further, local demonstrations are also increasing in reaction to what is perceived as injustice in the communities. A highly publicised case is the Pro-Savana project cooperation between Mozambique, Japan and Brazil, certainly one of the largest controversies in Mozambique pertaining to land issues. Civil society organisations have jointly raised their criticism in a "No ProSavana"-campaign (*Não ao ProSavana*).¹⁰⁷

¹⁰⁷ No ProSavana"-declaration.

The strengths

- ✓ The Constitution and the land law determine that land may not be sold or otherwise disposed of, nor may it be mortgaged or subject to attachment.
- ✓ The practice of sell land is a crime according to Penal Code.
- ✓ The Constitution of the Republic and the land law recognize and protect the right to land of citizens and local communities that have occupied the land through costume or customary practices or that have acquired land through inheritance. (Article 111 of the Constitution and article 12 of the Land Law). The absence of registration does not prejudice the DUAT acquired by occupation provided that it is duly proven under the terms of the land law in the light of customary practices. (Article 14 (2) of the Land Law).
- ✓ The land law establishes the terms in which the constitution, exercise, modification, transmission and extinction of DUAT.
- ✓ In the total and partial protection zones, the right to use and benefit from land cannot be acquired, but special licenses may be issued for the exercise of certain activities. (Article 9 of the Land law).
- ✓ The Land law promotes and protects and equality between men and women in terms of acquisition of land rights. (article 10 (1) of the Land Law).
- ✓ The DUAT titling process includes the opinion of the local administrative authorities, preceded by consultation of the respective communities, for the purpose of confirming if the area (land) is free and has no occupants. (article 13 (3) of the Land law. The consultation requirement in this provision is a binding one to guarantee that local communities land rights are not taken without their permission.
- ✓ According to article 24 of the Land Law, in rural areas, local communities participate: in the management of natural resources, in the resolution of conflicts, in the DUAT titling process, in the identification and definition of the boundaries of the lands occupied by them. And for the purpose of this participation of the local communities they can use among others the customary norms and practices
- ✓ The Constitution of Republic states de use and enjoyment of land as a fundamental right, therefore if constitutional guarantee for its protection. Those who experience violations of their land rights can complain before the court of law:

Article 69 of the Constitution

Right to Contest

Every citizen shall be entitled to contest those acts that violate their rights established in the Constitution and the laws.

Article 70 of the Constitution

Right of Recourse to the Courts

Every citizen shall have the right of recourse to the courts against acts that violate their rights and interests recognized by the Constitution and the laws.

The weaknesses

- ✓ The practice of the land purchase business is a limitation of the DUAT guarantee by the poor and other vulnerable groups, especially those who are not aware of their rights to land. There are situations where citizens, including local communities, see their land usurped and sold to others with considerable economic power, which has led to many land conflicts, with difficult means of settlement, due to the complexity and lack of clarity of the protection of DUAT.
- ✓ What is even more serious is that the unconstitutional practice of buying and selling land is so common that it involves agents of the public administration who should supervise, sanction and dissuade this practice.
- ✓ The lack of supervision appears as a great incentive to the growth of this business. An extraordinary effort is made to make public services more bureaucratic with excessive delays, obscure and complicated, which encourages the practice of corruption in a context of access to land through illegal business of buying and selling it.

- ✓ The negative effect, therefore, is to make land access difficult for citizens with weak economic power, free of charge, in principle and to make it more difficult to securely maintain the rights to land already acquired by the poor and local communities, since the same land can be sold to the economically or politically powerful, depending on the added value or geographical location that this land has.
- ✓ Rarely people have been taken into account before the court of law to sell or the land.
- ✓ Vulnerable groups continue to face inequalities in access to land, often because of a lack of economic power (status or social position), the arbitrariness of public services, the privileges given to people with economic capacity to the detriment of poor and because of loopholes in legislation and public land policies that allow discrimination to take place in the DUAT issues.
- ✓ Another example that can bring light to the practice of discrimination based on economic and social condition is the fact that the Land Law does not require title for the recognition of DUAT in certain cases, due to the actual cultural and customary specificities of our Country, which is reasonable and useful, but what happens is that who does not have the DUAT regularized with a DUAT title, lives in a legal uncertainty and is likely to easily see their rights violated.
- ✓ In cases of community resettlement or expropriation on grounds of public interest, the value of the compensation, the time it should be compensated and the way in which it should be compensated is not clearly defined in the law.
- ✓ That is why we have communities to be resettled in places that are unsuitable for human survival, without the least dignity and difficult access to basic social infrastructure and services, such as roads, transportation, drinking water, education and health, adequate housing.

Securing existing rights of people currently using the land

The Land Law, despite having known important successes, suffers from some inconsistencies regarding its harmonization and application in the light of the fundamental principles of human rights, mainly regarding the principles of non-discrimination and justice. The Land Act incorporates rules that prohibit the practice of acts that threaten landowners' rights, but the mechanisms of protection are unclear, ineffective, and provide room for delaying maneuvers that facilitate systematic DUAT violations.

DUAT is a fundamental right, but the public services provided for the satisfaction of this right are made in the perspective of a favor. Local communities and other vulnerable groups, including rural women, continue to be exposed to evictions, land grabbing and other abuses of their land rights.

Providing reliable rights to investors, that are not likely to be challenged in the future

- ✓ Mining concessions definitely attributed
- ✓ DUAT definitely granted the multinationals

Main issues in terms of land rights in connection with large-scale investments requiring large tracks of land

There are considerable ongoing investment in Mozambique in the field of natural resources, with mineral coal reserves in Tete, huge gas reserves in the Rovuma basin, in Cabo Delgado and huge agribusiness along Nacala Corridor in the Centre and North region of the country. Mozambique is reference for agribusiness due to the extensive fertile land it has. Therefore, Mozambique is a world target for investment by multinationals.

However, the investments on natural resources in Tete, Nampula and Cabo Delgado and in agribusiness such as Prosavana and Portucel Company in have little or any positive impact in communities live conditions and protection of their land and food rights. Overall, quite often these projects require huge tracks of land and as a result they have to displace or resettle families and communities. The problem is that the process of resettling families and communities is usually unfair with significant human rights violation, particularly with regard to fundamental economic, social and cultural rights.

There are significant land conflicts and local communities are accusing the business and government of grabbing their land and there are not responsibilities for such violations and they remain in impunity.

Local communities and civil society lack access to information and participation in the decision making process regarding issues business and human rights that affect livelihood of the local communities.

There is excessive secrecy and affected communities are not benefiting from the exploitation of natural resources and their lands by the multinationals.

What can be done to ensure better due diligence in connection with land allocations in the future

- ✓ There is a need for coordinated efforts to consolidate a culture of respect for DUAT from a human rights perspective, which implies training the population and institutions on culture with respect for DUAT and human rights.
- ✓ The supervision and control of the illegal business of buying and selling land requires better strategies and the application of the legal consequences to violators.
- ✓ The justice system must initiate a process of constructing a specific, simple and rapid procedural regime for the protection of land rights against any violations of land rights, especially in the context of large investments that require large hectares of land.
- ✓ Land distribution and population resettlement programs should have fair and reasonable implementation mechanisms to ensure that land is not provided to the poor and resettled families without the implementation of other essential infrastructure for easy access to water, education, agricultural practice, transportation and communication, food and other basic social and economic rights.
- ✓ It is important to take the necessary steps to ensure that the State's DUAT obligations are applied for the progressive and integrated implementation of the DUAT and to avoid situations of unacceptable and unjustifiable setbacks in the DUAT process. To that end, the principle of progressivity and prohibition of retrocession in the DUAT case needs to be considered. After having advanced the enjoyment of rights, the State cannot reduce the level reached, except in certain justifiable circumstances.
- ✓ Correct implementation of the land legislation, including the Constitution of the Republic.

Annex 16: Relevant legal regulations regarding land in Mozambique

Gathered and commented by a Joao Nhampossa.

Some relevant regulations regarding land in Mozambique

The main Laws that regulate issues of land rights in Mozambique are as follow:

- The Constitution of the Republic of 2004
- The Land Law nº 19/97, of 1 October
- The Land Law Regulation – Decree nº 66/98, of 8 December

Article 109 of the Constitution of the Republic of Mozambique (CRM) states that the sole owner of the land is the State, other persons or private entities cannot, according to the law, own the land. In Mozambique the ownership of land belongs only to the State.

Relevant articles from the Constitution of the Republic of Mozambique

Article 109 of the Constitution **Land**

1. All ownership of land shall vest in the State.
2. Land may not be sold or otherwise disposed of, nor may it be mortgaged or subject to attachment.
3. As a universal means for the creation of wealth and of social wellbeing, the use and enjoyment of land shall be the right of all the Mozambican people.

Article 110 of the Constitution **Use and Enjoyment of Land**

1. The State shall determine the conditions under which land may be used and enjoyed.
2. The right to use and benefit from land shall be granted to individual or corporate persons, taking into account its social or economic purpose.

Article 111 of the Constitution **Rights Acquired Through Inheritance or Occupation of Land**

In granting titles for the use and enjoyment of land, the State shall recognise and protect rights acquired through inheritance or by occupation, unless there is a legal reservation or the land has been lawfully granted to another person or entity.

Land management is the responsibility of the State that has the exclusive obligation to determine the conditions of its use and enjoyment.

With a view to improving the protection of land rights, the new Penal Code¹⁰⁸ has given a criminal punishment to the constitutional prohibition of the sale of land. Since its entry into force, in Mozambique, the practice of land sale has constituted a criminal conduct punishable by a major prison sentence.

¹⁰⁸ On 29 June 2015, the new Penal Code approved through Law 35/2014 entered into force.

Relevant article from the Penal Code

Article 269 of the Penal Code¹⁰⁹

(Sale of Land)

1. He who, arrogating to himself as owner, to sell, or in any other way alienate, to mortgage or to seize the land, shall be punished with a prison sentence of more than two to eight years, if a graver penalty does not apply.
2. The typical description referred to in the previous number does not include the transmissions of the right of *the use and enjoyment of land* related to rustic and urban buildings and servitudes of public interest under the law.

Relevant articles from the Land Law

Article 3

(General Principle)

All ownership of land shall vest in the State and the land may not be sold or otherwise disposed of, nor may it be mortgaged or subject to attachment.

Comment on the law: Under Article 13 (3) of the Land Law, the process of entitlement of the use and enjoyment of land (direito de uso e aproveitamento da terra – DUAT) must be preceded by consultation with the respective communities, for the purpose of confirming that the area is free and has no occupants.

According to this provision 13(3) communities must be consulted if the right to use of the land is to be given to other persons or entities.

In order for the DUAT of the previous owners to be considered extinct, it is necessary, first of all, to pay fair compensation and to the previous DUAT holders (article 18 (1)(b). For example, in this case the families or communities affected by business or expropriation of their land for the reason of public interest.

Comment on the law: Thus, the extinction of previous land rights holders does not take place if the legal requirement to pay fair compensation to the affected people is not met previously.

Article 12 of the Land Law

The right to land is acquired by:

- a) Occupation by nationals citizens (individuals) and local communities, in accordance with customary norms and practices insofar as they do not contravene the constitution;

Comment on the law¹¹⁰: It is understood by customary norms and practices, or, custom - repeated practices with the conviction of compulsion in a given society or community). This modality aims at contemplating the practices rooted in the traditions or way of life of the communities.

- b) Occupation by nationals citizens (individuals) who have been using the land in good faith for at least ten years;

Comment on the law: This type of occupation occurs in cases where individuals settle in a given area and begin to use the land without permission from any authority. In this modality people only acquire DUAT if they are using and exploiting this land in good faith.

- c) Authorization of the application submitted by natural persons or collective agreements in the manner established in this Law.

¹⁰⁹ Unofficial translation. No official version in English.

¹¹⁰ This comment is not part of the law but inserted as a note on the practical usage and understanding of it.

Comment on the law: This is the most formal or solemn form of acquisition of DUAT, through which the interested party must submit a request to the competent authorities for the proper authorization of DUAT. The local communities do not have to follow this form, since they benefit from DUAT by occupation according to norms and customary practices that do not contradict the Constitution.

It is important to note that, according to Article 17 (2) of the Land Law, DUAT acquired by occupation by local communities is not subject to a term of use and use; which means that DUAT of local communities, acquired on the basis of customary rules and practices, is a definitive right.

DUAT for housing and family exploitation by national natural persons are also not subject to time limits.

It should also be noted that the DUAT of local communities is not impaired by the lack of title, according to the provisions of paragraph 2 of article 13 of the Land Law.

So much so that documentary evidence is not essential for certification that communities hold the DUAT and may do so by other means of proof, including testimony (Article 15 of the Land Law).

Although the absence of a title does not detract from the safeguarding of DUAT, local communities or individuals who acquire DUAT by occupation have the option of requesting the issuance of the respective title.

The existence of a DUAT by other persons does not mean that they are entitled to it or that they have priority over those who have acquired DUAT by occupation under the law.

Land rights for economic activities: *DUAT for economic activities is subject to a maximum period of 50 years, renewable for an equal period at the request of the interested party. Once this renewal is over, should the interested party still wish to exercise DUAT for the purpose of economic activity, he must reapply.*

Issues of Public Domain: *The acquisition of DUAT from areas in the public domain, divided into areas of total protection (nature protection / preservation reserves and security and defence areas) and partial protection zones (areas adjacent to the waterfront, infrastructures military, dams and reservoirs, transportation routes, borders, etc.).*

Article 98 of the Constitution **State Property and Public Domain**

1. Natural resources in the soil and the subsoil, in inland waters, in the territorial sea, on the continental shelf and in the exclusive economic zone shall be the property of the State.

2. The public domain of the State shall comprise:

- a) the maritime zone;
- b) the airspace;
- c) archaeological heritage;
- d) nature conservation zones;
- e) hydraulic resources;
- f) energy resources;
- g) roads and railways;
- h) mineral deposits;
- i) other property classified as such by law.

3. The law shall regulate the legal regime of property in the public domain, as well as its management and conservation, and shall distinguish between the public domain of the State, the public domain of local authorities and the public domain of communities, with due respect for the principles of imprescriptibility and immunity from seizure.

*Comment on the law: **Transmission of land rights:** The transmission of DUAT is the process by which a certain person transfers his or her rights over the land to another person who, once all legal requirements have been fulfilled, then becomes the holder of the corresponding DUAT.*

The DUAT can be acquired by virtue of transmission by inheritance, without distinction of sex and in accordance with that established by the land law; and may also be transmitted (broken) between living persons, by the corresponding owners, by means of the transmission of the existing properties in the respective land.

Although the Constitution prohibits land from being mortgaged, sold or disposed of, real estate and improvements built or built on the land may be mortgaged or sold. There can be no transmission of DUAT on land without buildings, improvements or other infrastructures.

Article 16 of Land Law¹¹¹

Transmission of DUAT

1. The right of use and enjoyment of land can be transmitted by inheritance without distinction of gender.
2. Holders of the right of use and enjoyment of land can transmit, among the living persons, the infrastructure, buildings and improvements therein, by means of a public deed preceded by the authorization of the competent state entity.
3. In the cases mentioned in the previous number, the transmission is endorsed in respective title.
4. In the case of urban buildings, with the transmission of the property the right of use and enjoyment of the respective land is transmitted.
5. The holder of the right of use and enjoyment of land may constitute a mortgage on the property and improvements that, duly authorized, built on the land or on which he or she has legally acquired the right of ownership.

*Comment on the law: **Extinction of land rights:** Extinction of DUAT means cessation, termination or end of the exercise of the right of use and use of land that a particular person or local community enjoyed.*

In the case provided for in Article 18 (1) (a) of the Land Law, unjustified non-compliance with the business plan or investment project for which DUAT was acquired - two years in the case of foreign individuals or five years, in the case of national citizens - gives rise to the termination of DUAT.

Therefore, once the DUAT (provisional authorization) has been acquired, it is important to implement the plan in the respective field within the period stipulated in the law under penalty of forfeiture (lose) of the right.

Article 18 (1) (b) of the Land Law is a form of extinction that must be parallel to the expropriation process in accordance with the provisions of Article 19 (3) of the Land Law Regulation.

Article 18 of the Land Law¹¹²

Extinction of the right to use and enjoyment of land

1. The right of use and enjoyment of land is extinguished in the following cases:
 - a) Failure to comply with the operating plan or investment project, without good reason, in the timetable established in the approval of the application, even if the tax obligations are being fulfilled.
 - b) For revocation of the right of use and enjoyment of land for reasons of public interest, preceded by the payment of fair compensation or indemnisation.
 - c) At the end of the period or its renewal;
 - d) At the resignation of the holder;
2. In the event of the extinction of the right of use and enjoyment of land, non-removable improvements revert to the State.

Comment on the law: It should be noted that neither the Constitution nor the Land Law nor its Rules of Procedure refer to what can be considered fair compensation, nor does it stipulate which entity responsible for determining such compensation.

¹¹¹ Unofficial translation. Lei de Terras does not have an official version in English.

¹¹² Unofficial translation. No official version in English available.

Article 19 of the Land Law Regulation¹¹³

Extinction of DUAT

3. The process of extinguishing the right of use and enjoyment of land for reasons of public interest must be parallel to the expropriation process and preceded by payment of fair compensation and / or indemnisation.

¹¹³ Unofficial translation. No official version in English of Regulamento da Lei de Terras available.

Annex 17: Projects supported by Norway with private sector actors as implementing partners in Tanzania and Mozambique, 2010 - 2016

The Table below shows all projects with private sector actors as implementing partner supported by Norway in Tanzania and Mozambique, with a total budget of more than NOK 100,000. It only includes projects and budgets for Norfund projects for the period 2010 – 2013. After this period, Norfund budget data is not included in the Norad database, which is the source of this table.

The data is extracted solely from Norad's database – Bistand i tall – and includes all projects that have "private sector" as implementing partner, in Mozambique and Tanzania, and that has a total budget above NOK 100,000.

	Responsible agency	Sector	Total budget (NOK 1,000)
Mozambique			
Banco Terra	Norfund	Banking and Financial Services	64 232
Banco Terra: Digital Archive	Norfund	Banking and Financial Services	172
Banco Terra: IT Manager	Norfund	Banking and Financial Services	777
Beira Agricultural Growth Corridor Initiative	MFA	Agriculture	13 400
Brynhild Gruppen - Pilot production/training grant - Nut import from MOZ	Norad	Agriculture	346
CDM Capacity building Phase III	MFA	Energy	400
Consultancy to Parliament Seminar on Petroleum	MFA	Government and civil society	209
CTA - Private Sector Conference	MFA	Business and other services	165
Feasibility Study Mocuba PV Solar project	Norad	Energy	1 983
Fredskorpset personnel exchange	Peace Corps	Government and civil society	603
Green Resources AS- Sanga Reforestation Project -PDD development	Norad	Forestry	472
Green Resources AS-Industrial Plantations in Lurio Region	Norad	Forestry	2 914
Loc 13 - The second roundtable conference GM in energy cooperation	Norad	Energy	324
LoC 15: backstopping assistance to capacity building programme	Norad	Energy	3 497
LoC 5: Building Capacity for Gender Mainstreaming of Energy sector	Norad	Energy	1 302

Matanuska Africa	Norfund	Agriculture	104 988
Matanuska: Panama Disease Handling	Norfund	Agriculture	1 507
Media debate Woman and Equality 2011	MFA	Government and civil society	100
MRBB AS - Feasibility study - bio power	Norad	Industry	740
Peace Corps, FK Norway, personnel exchange	Peace Corps	Business & Forestry	1 599
Pre-feasibility study for water factory in Maputo	Norad	Water and sanitation	230
Socremo	Norfund	Banking and Financial Services	24 530
Socremo: Client Service Training & Product Development	Norfund	Banking and Financial Services	194
Socremo: Strategic plan & IT system upgrade	Norfund	Banking and Financial Services	1 099
Support to the transformation of GAPI into a Moz DFI	MFA	Banking and Financial Services	12 499
TA2 Banco Terra - Enhance rural outreach of financial services	MFA	Banking and Financial Services	4 000
Tanzania			
Africado Ltd.	Norfund	Agriculture	20 702
Africado: Child Day Care & Dining Room	Norfund	Other social infrastructure and services	170
Africado: Domestic Water	Norfund	Agriculture	165
Africado: Labour Housing	Norfund	Agriculture	157
Africado: outgrower scheme resource	Norfund	Agriculture	610
Agrica SRI programme 2011/2012	Norfund	Agriculture	2 136
Agrica: Clinic and HIV & Malaria programme	Norfund	Basic health	854
Agrica: SRI Programme	Norfund	Agriculture	402
Alios Finance Tanzania Ltd	Norfund	Banking and Financial Services	24 785
Appraisal of Rural Energy Fund	Norad	Energy	375
Athene-Feasibility study-Investments in Center of Climate Expertise	Norad	Energy	426
Consultancies for Support to the GSB secretariat	MFA	Government and civil society	815
Development of PDDs for CDM Projects	MFA	General environmental protection	226
Documenting of Tanzanian Art Collection	MFA	Other social infrastructure and services	194
Documenting of Tanzanian Art Collection - Phase II	MFA	Other social infrastructure and services	347
EITI Validation Process	MFA	Government and civil society	4 842

Exhibition paintings by Kambi	MFA	Other social infrastructure and services	124
Facilitate organization of REDD SADC workshop in Tanzania	MFA	General environmental protection	1 639
Feasibility study - NRD AS establishment of a branch office in TAN	Norad	Government and civil society	232
Fedha Fund	Norfund	Business and other services	161
FITCOL: outgrower scheme pilot	Norfund	Agriculture	185
Frame Contract Audit 2009-2012	MFA	Government and civil society	1 513
Fredskorpset personnel exchange	Peace Corps	Health, Energy & Business	1 300
Gospel Concert Norway-Tanzania	MFA	Other social infrastructure and services	234
GRAS: Mapping of Transmission Lines	Norfund	Heating, cooling and energy distribution	151
Green Resources	Norfund	Industry	102 231
Green Resources - PDD for biomass waste methane mitigation	Norad	Forestry	253
Green Resources AS-Sao Hill Sawhill -CDM	Norad	Forestry	304
Mwanza Landfill Project	Norad	Heating, cooling and energy distribution	151
Norcontrol A.S	Norad	Transport and storage	195
Norway Registers Development - training in connection with export	Norad	Government and civil society	150
OTG/i-sea AS-Feasibility study-Maritime roadmap East-Africa	Norad	Energy	444
Peace Corps, FK Norway, personnel exchange	Peace Corps	Education, Health, Communications, Energy, Business, Agriculture & Forestry	30 329
Rodeo Arkitekt AS urban planning feasibility study Tanzania	Norad	Other multisector	250
Ruhoi - Geothermal Power Plant	Norad	Energy	421
SAGCOT Centre Ltd.	MFA	Agriculture	9 000
Sao Hill Energy development project	Norfund	Energy	8 812
Scancem International DA- Feasibility study - power supply to TPCC	Norad	Energy	450
Scancem. Environement	Norad	Industry	500
Scancem-Tanzania. Application for training grant	Norad	Industry	450
SHE Clean Water Supply	Norfund	Water and sanitation	469
TAN - Makambako wind farm	Norad	Energy	713

TPS Dar es Salaam	Norfund	Tourism	55 566
TPS Dar: Vocational Training	Norfund	Industry	238
Yara fertiliser terminal Dar	Norfund	Agriculture	36 596

Source: Norad database – *Bistand i tall*

The table below provides data on all Norfund projects in Tanzania and Mozambique. The data has been provided by Norfund.

Project	Department	Ownership	Criteria country	Percentage in criteria country	Type	Commitment year	Original committed	Original committed, per country
Arise B.V.	Financial Institutions	33 %	Tanzania	32 %	Project	2016	2 162 990 841	695 185 256
Globeleq Ltd	Clean Energy	30 %	Tanzania	9 %	Project	2014	1 987 013 952	178 831 256
Agrica	Food and Agri	27 %	Tanzania	100 %	Project	2010	136 394 577	136 394 577
African Century Real Estates Ltd.	Food and Agri	14 %	Mozambique	100 %	Project	2015	126 774 152	126 774 152
Central Solar de Mocuba S.A.	Clean Energy	23 %	Mozambique	100 %	Project and Sub-Company	2016	93 095 700	93 095 700
Green Resources USD	Food and Agri	0 %	Tanzania	60 %	Project	2009	152 959 533	91 775 720
Arise B.V.	Financial Institutions	33 %	Mozambique	3 %	Project	2016	2 162 990 841	75 055 782
African Century Infrastructure Se	Food and Agri	20 %	Tanzania	100 %	Project	2014	58 846 775	58 846 775
TPS Dar es Salaam	Food and Agri	29 %	Tanzania	100 %	Project	2011	55 565 730	55 565 730
Green Resources USD	Food and Agri	0 %	Mozambique	30 %	Project	2009	152 959 533	45 887 860
ASILIA (African Spirit Group Limit	Food and Agri	19 %	Tanzania	85 %	Project	2013	50 176 380	42 649 923
Norfinance AS	Financial Institutions	50 %	Mozambique	10 %	Project	2013	419 929 770	41 992 977
European Financing Partners SA	Food and Agri	0 %	Tanzania	11 %	Project	2006	364 905 759	40 139 633
Yara fertiliser terminal Dar	Food and Agri	0 %	Tanzania	100 %	Project	2012	36 596 100	36 596 100
Aljos Finance Tanzania Ltd	Financial Institutions	0 %	Tanzania	100 %	Project	2012	27 832 000	27 832 000
Africado Ltd.	Food and Agri	40 %	Tanzania	100 %	Project	2009	26 249 768	26 249 768
NMI Fund III	Financial Institutions	26 %	Tanzania	13 %	Investee Fund	2013	183 970 974	22 996 372
Freight in Time	Food and Agri	24 %	Tanzania	22 %	Project	2015	86 663 000	19 065 860
Agri-Vie II	SME Funds	15 %	Tanzania	15 %	Investee Fund	2017	125 794 761	18 869 214
Fanisi Venture Capital Fund	SME Funds	34 %	Tanzania	17 %	Investee Fund	2009	101 313 723	17 223 333
GroFin Africa Fund	SME Funds	9 %	Tanzania	18 %	Investee Fund	2008	95 059 637	17 110 735
AfriCap Microfinance Investment	Financial Institutions	7 %	Mozambique	80 %	Investee Fund	2007	17 452 202	13 961 761
Voxtra East Africa Agribusiness In	SME Funds	30 %	Tanzania	35 %	Investee Fund	2011	33 091 304	11 581 956
Vertical Agro (Sunripe & Serenge	Food and Agri	0 %	Tanzania	29 %	Project	2014	37 928 660	10 999 311
NMI Frontier Fund	Financial Institutions	45 %	Mozambique	10 %	Investee Fund	2008	108 000 000	10 800 000
Agri-Vie	SME Funds	9 %	Tanzania	16 %	Investee Fund	2010	54 676 500	8 748 240
NMI Global Fund	Financial Institutions	45 %	Mozambique	5 %	Investee Fund	2008	162 000 000	7 938 000
Agri-Vie	SME Funds	9 %	Mozambique	12 %	Investee Fund	2010	54 676 500	6 561 180
African Century Nampula	Food and Agri	34 %	Mozambique	100 %	Project	2017	5 016 815	5 016 815
E&Co (Persistent Energy)	Clean Energy	13 %	Tanzania	21 %	Project	2009	18 909 990	4 027 828
European Financing Partners SA	Food and Agri	0 %	Mozambique	1 %	Project	2006	364 905 759	3 649 058
Norsad	Financial Institutions	11 %	Mozambique	5 %	Project	2011	56 846 585	2 842 329
Norsad	Financial Institutions	11 %	Tanzania	5 %	Project	2011	56 846 585	2 842 329
Nordic Microfinance Initiative AS	Financial Institutions	33 %	Tanzania	10 %	Project	2008	28 370 000	2 837 000
GroFin SGB Fund Limited Partner	SME Funds	19 %	Tanzania	2 %	Investee Fund	2015	127 073 885	2 541 478
Norwegian Microfinance Initiati	Financial Institutions	24 %	Mozambique	7 %	Project	2008	30 000 000	2 100 000
Fanisi Venture Management Com	SME Funds	50 %	Tanzania	17 %	Project	2009	2 989 549	508 223
AfriCap Microfinance Investment	Financial Institutions	7 %	Tanzania	0 %	Investee Fund	2007	17 452 202	-
Neofresh	Food and Agri	34 %	Mozambique	100 %	Project	2017		

Annex 18: HRDD Quality Assessment – MFA

Core element	Quality	Total attainable score	Total score	Percentage	Average score
Identify and assess	Does the HRDD continually identify, assess and prioritises the relevant human right risks that may impact relevant stakeholders (including gender sensitive risks) according to the context of operation and value chain.	36	14	39 %	1,17
Prevent and mitigate	Has the HRDD been implemented within the organisation, in its projects and value chain	33	16	48 %	1,45
Tracking performance	Is the HRDD performance periodically tracked through use of indicators and systems to ensure that negative human rights impacts are being prevented taking into account stakeholder feedback.	9	2	22 %	0,67
Communication	Does the organisation communicate on its management of HRDD externally and in particular to impacted stakeholders on specific issues.	15	8	53 %	1,60
Remediation	Is a grievance mechanism in place and remediation provided for negative human rights impacts.	12	4	33 %	1,00

Scoring legend	
3 - Fully aligned	All elements are of high quality and in place
2 - Partially aligned	Most elements in place, but quality vary and opportunities for improvements
1 - Not adequate	Only few elements are in place and / or the quality is poor
0 - Nothing	None of the elements are in place
NA	Not possible to assess

ID	Core element	Sub-element	Score	Justification for scoring
1	Identify and assess	A policy commitment on human rights is in place. It is based upon recognised international conventions and standards and approved by senior management. It clearly communicates the human rights expectations of employees and partners throughout the value chain of its operations, products and services.	2	The commitment to implement the UNGP is enshrined in the Ministry's White Papers: "Human Rights in Norway's Foreign Policy and Development Cooperation" — Meld. St. 10 (2014–2015) and "Private sector development" - Meld. St. 35 (2014 - 2015) (the English summary of the Private Sector White Paper, however, does not mention UNGP). The White Paper on publicly owned companies ("Diverse and value-creating ownership, St. Meld 27 (2013-2014)) from the Ministry of Trade, Industry and Fisheries, also makes reference to UNGP; but this is less relevant to development cooperation. "National action plan on business and human rights" (2015) sets out a plan for the implementation of UNGP.
2	Identify and assess	Responsibilities for the policy commitment are clearly allocated on management and operational level.	1	Responsibilities for implementing UNGP are allocated to relevant departments, but the division of responsibilities is not clear between those working with private sector and those working with human rights.
3	Identify and assess	The policy commitment is embedded in the organisation through internal communication, training and other activities.	1	The extent to which the policy commitment is embedded is spotty. There are examples of where there is a strong follow up, as in portfolios of Myanmar, and to some extent Tanzania. But in other places, for example Mozambique, there is less evidence that the importance of UNGP is clearly communicated. UNGP is to a very little extent included in training.
4	Identify and assess	The HRDD considers risks and impacts arising both from the organisation's own activities as well as risks and impacts that are directly linked to the organisation's operations and products and service. It assesses whether the organisation causes or contributes to the negative impact, or whether its operations, products or services are directly linked to the negative impact through a business relationship, even if the organisation has not caused or contributed to the impact itself.	1	The process for routine HRDD is in the format for the Decision Document, where human rights is listed as one of four crosscutting issues. Human rights was introduced as a crosscutting issue in 2016, prior to which there was no requirement to consider human rights in Decision Documents. The guidelines for how to deal with human rights are top-down and formalistic. The sector specific guidelines for private sector development are more detailed, but still lack instructions on how to do effective country specific analysis. Overall, it appears that the MFA is more drilled at delivering on policy level than operational on ground level, also when it comes to UNGP.
5	Identify and assess	The HRDD identifies and assesses the human right risks in the relevant countries, local environment, industry and company	1	There is no systematic HRDD for countries or areas of business. The process is more ad hoc and depends on the staff in question, and the depth and quality of the HRDD process varies greatly from project to project.

ID	Core element	Sub-element	Score	Justification for scoring
6	Identify and assess	The HRDD identifies affected stakeholders, consults with them in good faith and incorporates their particular insight and perspectives in the risk-assessment.	1	There is no defined standard. The process varies from project to project.
7	Identify and assess	The HRDD identifies and assesses risk for vulnerable groups including indigenous peoples, marginalized groups, disabled people.	1	Same as above.
8	Identify and assess	The HRDD identifies and assesses gender sensitive risks	2	There is probably more follow up on gender issues than other human rights issues, seeing that gender is a cross-cutting issue in its own right. On the other hand it is unclear how much this is linked to the UNGP processes.
9	Identify and assess	The HRDD makes special arrangements to ensure that the most vulnerable groups are involved and engaged.	1	This is done on an ad hoc basis. No routines for this.
10	Identify and assess	When parts of the value chain are difficult to reach, are invisible or the organisation lacks leverage over suppliers deep in the supply chain, the HRDD seeks to solve such challenges by using, when appropriate and practical, fit-for-purpose tools. like identification of "control points" in the value chain - i.e. suppliers that can be controlled and also has several business relationships deeper in the value chain - and focus on evaluation of, and information from, these actors.	1	No instructions on doing HRDDs on supply chains.
11	Identify and assess	The HRDD prioritizes the human rights risks with a view to identify the most salient risks, based on how grave and how widespread the risk is, as well as remediability and the likelihood of occurrence in the future. Prioritization is based on internal and external expertise, and, in particular, stakeholder input.	1	No strong routines and / regulations on how to assess and prioritise risks.

ID	Core element	Sub-element	Score	Justification for scoring
12	Identify and assess	The assessment of human rights risks is revisited and repeated with regular intervals and when the operations and/or their context changes significantly, and/or new products are introduced and/or information calls for reassessment.	1	No regulation on how to track and adjust risks.
13	Prevent and mitigate	The organisation integrates the risks and negative impacts that are identified and integrates these in plans and procedures that include fit-for-purpose and effective actions to avoid, prevent and/or mitigate the concrete risks and negative impacts.	1	This is done to a limited extent, but there is no set standards, and to the extent that this is done, the quality varies greatly.
14	Prevent and mitigate	The organisation provides fit-for-purpose training for relevant staff and management in own organisation.	1	There is some training for staff, but this UNGP and HRDD is not part of standard induction for staff who are being stationed at an embassy where aid projects are managed. UNGP is mentioned in annual regular meetings for embassies at the MFA home office in January and August, but not as part of systematic training. The Ministry has without success tried to introduce an Internet based course in line with the Swedish courses. The MFA has access to OECD NCP trainings.
15	Prevent and mitigate	The organisation consults and cooperates with workers and their representatives as well as affected stakeholders to develop appropriate actions.	1	This is done on an ad hoc basis. No routines for this.
16	Prevent and mitigate	The organisation stops any own action or operation that it is causing or contributing to negative human rights impacts, and develop plans to prevent and mitigate future negative impacts stemming from the organisation's own activities.	2	Observed negative impacts on human rights will in most cases lead to stop in activities and / or mitigating action, but there is no systematic planning or follow-up on this. There are no reports on projects being stopped.
17	Prevent and mitigate	The organisation has developed pre-qualification procedures for suppliers and other business relationships based on HRDD.	1	There are no set routines for this. Some type of vetting is done but not in a systematic manner.
18	Prevent and mitigate	The organisation communicates clear expectations to their suppliers and business partners, throughout the value-chain, that they shall respect human	1	Not routinely done but information on expectations are shared more generally.

ID	Core element	Sub-element	Score	Justification for scoring
		rights and that appropriate and effective HRDD be undertaken by their suppliers and business partners.		
19	Prevent and mitigate	The organisation has, in accordance with regulatory obligations and renowned governance principles, included rights to receive information and right to inspection/audit, as well as right to exercise legal leverage in case of failure to prevent or mitigate human rights abuses, in their contracts/agreements with its business partners. Such contractual terms are followed up by the organisation through active dialogue and other mechanism to assure the organisation that the undertakings are well understood.	1	There is mention of the need for ethical practices in contracts, and clauses ascertaining right to information, inspection and audit. But there is no registry confirming that business partners or suppliers have confirmed that they have human rights policies in place, and there are no formats for self-assessments.
20	Prevent and mitigate	The organisation uses different strategies to build leverage over its business relationships, including cooperation with other actors, industry organisations or others.	2	The MFA directly and through embassies have different tools and strategies to build leverage over business relationships, both in general and for priority cases, but not necessarily linked to the UNGP and HRDD engagement.
21	Prevent and mitigate	The organisation supports relevant suppliers and other business relationships in prevention and mitigation of negative human rights impacts, e.g. through training, upgrading of facilities or strengthening of management systems.	2	The Ministry and embassies do support training for business actors.
22	Prevent and mitigate	The organisation has procedures or guidelines for disengagement from suppliers or other business relationships in cases when risk and/or negative impacts continue after failed attempts to prevent and mitigate.	2	There are procedures for this. All contracts have clauses for disengagement and repercussions in case of human rights breaches. There are, however, limited examples of projects actually being stopped due to suspected human rights breaches. Compared with MFA's regulations and follow-up on corruption the follow-up on human rights issues seems to fall short.

ID	Core element	Sub-element	Score	Justification for scoring
23	Prevent and mitigate	The organisation is, when appropriate, engaging with governments in countries where negative human rights impacts are occurring, with a view to encourage local authorities to address prevailing human rights issues through inspections or changes to regulatory framework.	2	The Ministry and embassies do engage with partner governments to strengthen human rights - also in business.
24	Prevent and mitigate	No key performance indicators work against proper HRDD, and the organisation has clear policies and systems in place in order to solve conflicts between respecting human rights and meeting business objectives.	NA	Difficult to answer this, as there are political costs associated with taking a principled stand - these could be seen to be disincentives, but hard to see how it could be otherwise. It does not seem to be a clear policy and system in place regarding this.
25	Tracking performance	The organisation has developed indicators and systems in order to track the effectiveness and responses to human rights impacts, in particular impacts on individuals or groups which may be of heightened risks, and this is used to drive continuous improvement.	0	No systematic tracking of human rights or human rights risks
26	Tracking performance	The tracking is done periodically.	1	The only tracking could be in specific projects, or through the standard periodic reporting, for example, from embassies to MFA. There are no indications of a systematic periodic tracking performance at the MFA.
27	Tracking performance	The tracking is based on feedback from stakeholders and input from grievance mechanisms and other feedback-loops.	1	Within specific projects, this can be the case, but not on a higher more general level.
28	Communication	The organisation communicates externally on how they address their human rights impacts. Communications reflects the organisation's actual human rights impacts and is accessible to actually or potentially impacted persons and other stakeholders, including investors.	1	The MFAs external reporting is through the budget propositions (St. Prop. 1). This does provide a systemic reporting on how the Ministry is addressing human rights impact. Reporting is largely activity based, with limited opportunity for tracking progress over several years. The MFA communicates general views on UNGP and human rights through white papers and action plans, statements in international and bilateral institutions, in meetings and in public debate, but not so much individual cases and concrete human rights impacts.
29	Communication	The communications pose no risk to affected stakeholders or others, or breaches confidentiality requirements.	3	There is little or nothing in the Ministry's public reports that would endanger anyone.

ID	Core element	Sub-element	Score	Justification for scoring
30	Communication	The information provided is sufficient to evaluate the adequacy of the organisation's response to the particular human rights impacts involved.	1	See answer to question ID # 28, above.
31	Communication	When the operations or the operating context pose risks of severe human rights impacts, the organisation reports formally, annually or otherwise periodically, on its HRDD, including policies, procedures and activities undertaken.	1	Limited reporting on HRDD. There is reporting on HRDD in isolated project documents, but no reporting on HRDDs or on any cases of human rights breaches in the MFAs reporting to Parliament.
32	Communication	The organisation communicates with impacted stakeholders on concerns raised by them, relevant human rights risks and actions taken.	2	The MFA generally engages with stakeholders that engage with them on human rights concerns. This process is more reactive than proactive.
33	Remediation	The organisation enables effective remedy if people are harmed by its actions or decisions in relation to a salient human rights issue.	1	It is difficult to answer this question, due to limited information available. Based on the case studies, the answer would be that this is occasionally attempted at project level, but not in a systematic manner.
34	Remediation	The organisation has established or participate in operational-level grievance mechanisms that are legitimate, accessible, predictable, equitable, transparent and rights-compatible.	1	There are well established grievance mechanism through a designated office in the Ministry (<i>Sentral kontrollenhet</i>). This process, however, is not well communicated externally and in practice, it is used to raise corruption and not human rights concerns. The mechanism has not received reports on human rights breaches. Some officials at MFA and embassies refer to OECD NCP as a grievance mechanism, but it is not presented as such on any of the websites, the NCP portal or any other places.
35	Remediation	The grievance mechanisms are based on engagement and dialogue, including consultations with affected stakeholder groups about design and performance of the mechanism.	1	See above.
36	Remediation	The grievance mechanism is a source of continuous learning for the organisation, and input from the grievance mechanism is regularly used to improve the organisation's understanding of its	1	There is limited evidence that the grievance mechanism has been a source of learning in the human rights arena (other than for the OECD NCP itself).

ID	Core element	Sub-element	Score	Justification for scoring
		human rights impacts, and to better its policies, procedures and practices.		

Annex 19: HRDD Quality Assessment – Embassies

Core element	Quality	Total attainable score	Total score	Percentage	Average score
Identify and assess	Does the HRDD continually identify, assess and prioritises the relevant human right risks that may impact relevant stakeholders (including gender sensitive risks) according to the context of operation and value chain.	36	14	39 %	1,17
Prevent and mitigate	Has the HRDD been implemented within the organisation, in its projects and value chain	33	17	52 %	1,55
Tracking performance	Is the HRDD performance periodically tracked through use of indicators and systems to ensure that negative human rights impacts are being prevented taking into account stakeholder feedback.	9	3	33 %	1,00
Communication	Does the organisation communicate on its management of HRDD externally and in particular to impacted stakeholders on specific issues.	15	8	53 %	1,60
Remediation	Is a grievance mechanism in place and remediation provided for negative human rights impacts.	12	3	25 %	0,75

Scoring legend	
3 - Fully aligned	All elements are of high quality and in place
2 - Partially aligned	Most elements in place, but quality vary and opportunities for improvements
1 - Not adequate	Only few elements are in place and / or the quality is poor
0 - Nothing	None of the elements are in place
NA	Not possible to assess

ID	Core element	Sub-element	Score	Justification for scoring
1	Identify and assess	A policy commitment on human rights is in place. It is based upon recognised international conventions and standards and approved by senior management. It clearly communicates the human rights expectations of employees and partners throughout the value chain of its operations, products and services.	2	The commitment to implement the UNGP is enshrined in the Ministry's White Papers: "Human Rights in Norway's Foreign Policy and Development Cooperation" — Meld. St. 10 (2014–2015) and "Private sector development" - Meld. St. 35 (2014 - 2015) (the English summary of the Private Sector White Paper, however, does not mention UNGP). The White Paper on publicly owned companies ("Diverse and value-creating ownership, St. Meld 27 (2013-2014)) from the Ministry of Trade, Industry and Fisheries, also makes reference to UNGP; but this is less relevant to development cooperation. "National action plan on business and human rights" (2015) sets out a plan for the implementation of UNGP. The embassies' Annual Directives mention OECD's guidelines for responsible business, but make no mention of UNGP.
2	Identify and assess	Responsibilities for the policy commitment are clearly allocated on management and operational level.	1	Responsibilities for implementing UNGP is assumed to be with the officer responsible for private sector development. Responsibility for human rights can be with a different person. Thus, the responsibility lies with different persons and fragment the efforts to implement on management and operational level.
3	Identify and assess	The policy commitment is embedded in the organisation through internal communication, training and other activities.	1	The assessed embassies have conducted a number of awareness raising activities and officers are familiar with UNGP. The commitment to follow up is mixed, however, with the Mozambique Embassy seeing UNGP more as a human rights issue, with less relevance for its private sector development.
4	Identify and assess	The HRDD considers risks and impacts arising both from the organisation's own activities as well as risks and impacts that are directly linked to the organisation's operations and products and service. It assesses whether the organisation causes or contributes to the negative impact, or whether its operations, products or services are directly linked to the negative impact through a business relationship, even if the organisation has not caused or contributed to the impact itself.	1	The process for routine HRDD is in the format for the Decision Document, where human rights are listed as one of four cross cutting issues. The guidelines for how to deal with human rights are top-down and formalistic. The embassy staff do not find the available material to be operationally useful. Prior to 2016, human rights was not a cross cutting issue. The Decision Document for the SAGCOT project in

ID	Core element	Sub-element	Score	Justification for scoring
				Tanzania, for instance, which was signed in November 2014, makes no mention of human rights.
5	Identify and assess	The HRDD identifies and assesses the human right risks in the relevant countries, local environment, industry and company.	1	The case projects' risk assessments did identify relevant risks, but the embassies had a limited role in this, and limited capacity to follow up. The embassies have no guides for how HRDDs should be conducted.
6	Identify and assess	The HRDD identifies affected stakeholders, consults with them in good faith and incorporates their particular insight and perspectives in the risk-assessment.	1	The process varies from project to project, but there is no defined standard.
7	Identify and assess	The HRDD identifies and assesses risks for vulnerable groups including indigenous peoples, marginalized groups, disabled people.	1	Same as above.
8	Identify and assess	The HRDD identifies and assesses gender sensitive risks.	2	There is probably more follow up on gender issues than other human rights issues, seeing that gender is a cross-cutting issue in its own right in format for the Decision Document.
9	Identify and assess	The HRDD makes special arrangements to ensure that the most vulnerable groups are involved and engaged.	1	This is done on an ad hoc basis. No routines for this.
10	Identify and assess	When parts of the value chain are difficult to reach, are invisible or the organisation lacks leverage over suppliers deep in the supply chain, the HRDD seeks to solve such challenges by using, when appropriate and practical, fit-for-purpose tools. Like identification of "control points" in the value chain - i.e. suppliers that can be controlled and also has several business relationships deeper in the value chain - and focus on evaluation of, and information from, these actors.	1	No instructions on doing HRDDs on supply chains.
11	Identify and assess	The HRDD prioritizes the human rights risks with a view to identify the most salient risks, based on how grave and how widespread the risk is, as well as remediability and the likelihood of occurrence in the future. Prioritization is based on internal and external expertise, and, in particular, stakeholder input.	1	No strong routines and / or regulations on how to assess and prioritise risks.
12	Identify and assess	The assessment of human rights risks is revisited and repeated with regular intervals and when the operations and/or their context changes significantly, and/or new	1	No regulation on how to track and adjust risks. Projects are reviewed through biannual reporting and meetings, but there

ID	Core element	Sub-element	Score	Justification for scoring
		products are introduced and/or information calls for reassessment.		are no set system for tracking of risks, including human rights risks.
13	Prevent and mitigate	The organisation integrates the risks and negative impacts that are identified and integrates these in plans and procedures that include fit-for-purpose and effective actions to avoid, prevent and/or mitigate the concrete risks and negative impacts.	1	There are no set routines for this and limited capacity and competency.
14	Prevent and mitigate	The organisation provides fit-for-purpose training for relevant staff and management in own organisation.	1	There is some training for staff, but this is not part of standard induction for staff who are being stationed at an embassy where aid projects are managed.
15	Prevent and mitigate	The organisation consults and cooperates with workers and their representatives as well as affected stakeholders to develop appropriate actions.	1	This is done on an ad hoc basis. No routines for this. The Tanzanian Embassy staff stated that they felt they needed more time for field visits to do consultative work on risks.
16	Prevent and mitigate	The organisation stops any own action or operation that it is causing or contributing to negative human rights impacts, and develop plans to prevent and mitigate future negative impacts stemming from the organisation's own activities.	2	If project officers observe or receive verifiable reports of negative impacts on human rights, this would probably in most cases lead to stop in activities and / or mitigating action, but there is no systematic planning on this. There were no recorded cases of where this had happened.
17	Prevent and mitigate	The organisation has developed pre-qualification procedures for suppliers and other business relationships based on HRDD.	1	There are no set routines for this. Some type of vetting is done but not in a systematic manner.
18	Prevent and mitigate	The organisation communicates clear expectations to their suppliers and business partners, throughout the value-chain, that they shall respect human rights and that appropriate and effective HRDD be undertaken by their suppliers and business partners.	1	Not routinely done.
19	Prevent and mitigate	The organisation has, in accordance with regulatory obligations and renowned governance principles, included rights to receive information and right to inspection/audit, as well as right to exercise legal leverage in case of failure to prevent or mitigate human rights abuses, in their contracts/agreements with its business partners. Such contractual terms are followed up by the organisation through active dialogue and other mechanism to assure the organisation that the undertakings are well understood.	2	Contracts generally have a get out clause. There is mention of the need for ethical practices in contracts, and clauses ascertaining right to information, inspection and audit. But there is no registry confirming that business partners or suppliers have confirmed that they have human rights policies in place, and there are no formats for self-assessments.

ID	Core element	Sub-element	Score	Justification for scoring
20	Prevent and mitigate	The organisation uses different strategies to build leverage over its business relationships, including cooperation with other actors, industry organisations or others.	2	The embassies engage in lobbying type activities in priority cases.
21	Prevent and mitigate	The organisation supports relevant suppliers and other business relationships in prevention and mitigation of negative human rights impacts, e.g. through training, upgrading of facilities or strengthening of management systems.	2	The embassies support training for business actors.
22	Prevent and mitigate	The organisation has procedures or guidelines for disengagement from suppliers or other business relationships in cases when risks and/or negative impacts continue after failed attempts to prevent and mitigate.	2	There are procedures for this. All contracts have clauses for disengagement and repercussions in case of human rights breaches. There are, however, limited examples of projects actually being stopped due to suspected human rights breaches. Compared with regulations and follow-up on corruption the follow-up on human rights issues seems to fall short.
23	Prevent and mitigate	The organisation is, when appropriate, engaging with governments in countries where negative human rights impacts are occurring, with a view to encourage local authorities to address prevailing human rights issues through inspections or changes to regulatory framework.	2	The embassies engage with partner governments to strengthen human rights - also in business.
24	Prevent and mitigate	No key performance indicators work against proper HRDD, and the organisation has clear policies and systems in place in order to solve conflicts between respecting human rights and meeting business objectives.	NA	Difficult to answer this, as there are political costs associated with taking a principled stand - these could be seen to be disincentives, but hard to see how it could be otherwise.
25	Tracking performance	The organisation has developed indicators and systems in order to track the effectiveness and responses to human rights impacts, in particular impacts on individuals or groups which may be of heightened risks, and this is used to drive continuous improvement.	1	No systematic tracking of human rights or human rights risks. The half yearly reports require to consider human rights but this does not amount to systematic tracking.
26	Tracking performance	The tracking is done periodically.	1	The only tracking could be in specific projects, or through the standard periodic reporting, for example, from embassies to the MFA.
27	Tracking performance	The tracking is based on feedback from stakeholders and input from grievance mechanisms and other feedback-loops.	1	Within specific projects, this can be the case, but not on a higher more general level.

ID	Core element	Sub-element	Score	Justification for scoring
28	Communication	The organisation communicates externally on how they address their human rights impacts. Communications reflect the organisation's actual human rights impacts and is accessible to actually or potentially impacted persons and other stakeholders, including investors.	1	The embassies do no external reporting. Notable issues could be reported in MFA's report to Parliament, but not in a systematic manner covering all embassies.
29	Communication	The communications pose no risk to affected stakeholders or others, or breaches confidentiality requirements.	3	There is little or nothing in the embassies' public reports that would endanger anyone.
30	Communication	The information provided is sufficient to evaluate the adequacy of the organisation's response to the particular human rights impacts involved.	1	See answer to question ID # 28, above.
31	Communication	When the operations or the operating context pose risks of severe human rights impacts, the organisation reports formally, annually or otherwise periodically, on its HRDD, including policies, procedures and activities undertaken.	1	Limited reporting on HRDD.
32	Communication	The organisation communicates with impacted stakeholders on concerns raised by them, relevant human rights risks and actions taken.	2	The embassies do generally engage with stakeholders that engage with them on human rights concerns.
33	Remediation	The organisation enables effective remedy if people are harmed by its actions or decisions in relation to a salient human rights issue.	1	It is difficult to answer this question, due to limited information available. Based on the case studies, the answer would be that this is occasionally attempted, but not in a systematic manner.
34	Remediation	The organisation has established or participate in operational-level grievance mechanisms that are legitimate, accessible, predictable, equitable, transparent and rights-compatible.	1	The embassies do not have their own grievance mechanisms. They are covered by MFA grievance mechanism, but this is not well communicated and in practice, this mechanism is used to raise corruption and not human rights concerns.
35	Remediation	The grievance mechanisms are based on engagement and dialogue, including consultations with affected stakeholder groups about design and performance of the mechanism.	1	See above.
36	Remediation	The grievance mechanism is a source of continuous learning for the organisation, and input from the grievance mechanism is regularly used to improve the organisation's understanding of its human rights impacts, and to improve its policies, procedures and practices.	0	There is no evidence that the grievance mechanism has been a source of learning in the human rights arena (other than for the OECD NCP itself). This is not surprising seeing that there is no systematic collection of human rights grievances.

Annex 20: HRDD Quality Assessment – Norad

Core element	Quality	Total attainable score	Total score	Percentage	Average score
Identify and assess	Does the HRDD continually identify, assess and prioritizes the relevant human right risks that may impact relevant stakeholders (including gender sensitive risks) according to the context of operation and value chain.	36	14	39 %	1,17
Prevent and mitigate	Has the HRDD been implemented within the organisation, in its projects and value chain	33	14	42 %	1,27
Tracking performance	Is the HRDD performance periodically tracked through use of indicators and systems to ensure that negative human rights impacts are being prevented taking into account stakeholder feedback.	9	2	22 %	0,67
Communication	Does the organisation communicate on its management of HRDD externally and in particular to impacted stakeholders on specific issues.	15	7	47 %	1,40
Remediation	Is a grievance mechanism in place and remediation provided for negative human rights impacts.	12	4	33 %	1,00

Scoring legend	
3 - Fully aligned	All elements are of high quality and in place
2 - Partially aligned	Most elements in place, but quality vary and opportunities for improvements
1 - Not adequate	Only few elements are in place and / or the quality is poor
0 - Nothing	None of the elements are in place
NA	Not possible to assess

ID	Core element	Sub-element	Score	Justification for scoring
1	Identify and assess	A policy commitment on human rights is in place. It is based upon recognised international conventions and standards and approved by senior management. It clearly communicates the human rights expectations of employees and partners throughout the value chain of its operations, products and services.	2	Norad's policy commitment is taken from MFA, which see.
2	Identify and assess	Responsibilities for the policy commitment are clearly allocated on management and operational level.	1	Responsibilities for implementation of UNGP is vested in the responsible programmatic sections in Norad. Responsibilities for projects implemented by the Section for private sector development lies with that section. In addition, the Section for human rights and democracy has the normative responsibility for UNGP in Norad, and can provide support to the other sections on demand, but they have no official oversight role. The Section for Renewable Energy, on the other hand, has its own system (they follow the IFC Performance Standards), so there is no uniform standard.
3	Identify and assess	The policy commitment is embedded in the organisation through internal communication, training and other activities.	1	There is an offer of relevant training in Norad. But it is demand-based and the Section of human rights has not been asked to provide any training relating to business and human rights in the last two years. Most members of the Section for private sector development section have received training on UNGP from the Contact Point, but there is no requirement or schedule for training. The Section for Renewable Energy have not received training from the Contact Point.
4	Identify and assess	The HRDD considers risks and impacts arising both from the organisation's own activities as well as risks and impacts that are directly linked to the organisation's operations and products and service. It assesses whether the organisation causes or contributes to the negative impact, or whether its operations, products or services are directly linked to the negative impact through a business relationship, even if the organisation has not caused or contributed to the impact itself.	1	The HRDD process that is prescribed in the Grant Management Manual and the Grant Scheme for private sector development, does not provide any detailed instructions beyond asking if the project has performed a process of due diligence. A thorough due diligence, also for human rights, is often done, and there are cases where Norad requests more work, but this is highly dependent on the people involved. The Section for Renewable Energy follow the IFC Performance Standards.

ID	Core element	Sub-element	Score	Justification for scoring
5	Identify and assess	The HRDD identifies and assesses the human right risks in the relevant countries, local environment, industry and company.	1	There is no set system or instruction for mapping the country and sector context. The instructions in the Grant Management Manual are very formalistic and top-down.
6	Identify and assess	The HRDD identifies affected stakeholders, consults with them in good faith and incorporates their particular insight and perspectives in the risk-assessment.	1	As above.
7	Identify and assess	The HRDD identifies and assesses risk for vulnerable groups including indigenous peoples, marginalized groups, and disabled people.	1	As above.
8	Identify and assess	The HRDD identifies and assesses gender sensitive risks.	2	Gender is covered both as a human rights and a gender issue under cross-cutting concerns. If gender is not addressed in risk assessments, Norad often addresses this, however there are no specific guidelines on how to do this. The issue of sexual harassment, for example, was not addressed case projects, although sexual harassment arose as an issue in a case during project implementation, which was well dealt with by the specific project in question.
9	Identify and assess	The HRDD makes special arrangements to ensure that the most vulnerable groups are involved and engaged.	1	This is often done, but there is no clear system to ascertain that this will be done.
10	Identify and assess	When parts of the value chain are difficult to reach, are invisible or the organisation lacks leverage over suppliers deep in the supply chain, the HRDD seeks to solve such challenges by using, when appropriate and practical, fit-for-purpose tools. Like identification of "control points" in the value chain - i.e. suppliers that can be controlled and also has several business relationships deeper in the value chain - and focus on evaluation of, and information from, these actors.	1	Consideration of supply chain may take place, but is not required and there are no check lists for this.
11	Identify and assess	The HRDD prioritizes the human rights risks with a view to identify the most salient risks, based on how grave and how widespread the risk is, as well as remediability and the likelihood of occurrence in the future. Prioritization is based on internal and external expertise, and, in particular, stakeholder input.	1	In certain cases, risks are identified and prioritised, but this is not done in a systematic manner. The Section of private sector development and the Section for Renewable Energy make limited use of Norad's internal specialised expertise on human rights and UNGP.

ID	Core element	Sub-element	Score	Justification for scoring
12	Identify and assess	The assessment of human rights risks is revisited and repeated with regular intervals and when the operations and/or their context changes significantly, and/or new products are introduced and/or information calls for reassessment.	1	Reassessments are done in conjunction with field visits, but this is not tracked or done in a regular manner.
13	Prevent and mitigate	The organisation integrates the risks and negative impacts that are identified and integrates these in plans and procedures that includes fit-for-purpose and effective actions to avoid, prevent and/or mitigate the concrete risks and negative impacts.	1	This is not approached in a systematic manner. See answers above.
14	Prevent and mitigate	The organisation provides fit-for-purpose training for relevant staff and management in own organisation.	2	The Section for private sector development does use the Contact Point for training of staff, and most members have been trained. The Section has arranged one internal seminar on UNGP and two section meetings have dealt with it. There is, however, little use of the technical assistance offered by the Section for Human Rights. The Section for Renewable Energy has recently appointed a focal person for human rights, but she has not yet received training in-house.
15	Prevent and mitigate	The organisation consults and cooperates with workers and their representatives as well as affected stakeholders to develop appropriate actions.	1	This does take place in connection with field visits, but there is no system for this or check lists for consultations.
16	Prevent and mitigate	The organisation stops any own action or operation that it is causing or contributing to negative human rights impacts, and develop plans to prevent and mitigate future negative impacts stemming from the organisation's own activities.	1	The system allows for this, but none of the sections reviewed can provide examples of where support has been halted as a result of negative human rights impacts.
17	Prevent and mitigate	The organisation has developed pre-qualification procedures for suppliers and other business relationships based on HRDD.	0	This is not in place.
18	Prevent and mitigate	The organisation communicates clear expectations to their suppliers and business partners, throughout the value-chain, that they shall respect human rights and that appropriate and effective HRDD be undertaken by their suppliers and business partners.	2	The expectation that business partners should respect human rights is communicated, but the requirements for HRDD is explained in less detail. Grant applicants need to sign a "Declaration concerning ethical guidelines," in which they self-declare that 1) the organisation/company has in place ethical guidelines according to Norad's standards, 2) that they will comply with these, and 3) will grant Norad access to the guidelines. There

ID	Core element	Sub-element	Score	Justification for scoring
				is also a clause in the standard contracts which includes a commitment to respect human rights.
19	Prevent and mitigate	The organisation has, in accordance with regulatory obligations and renowned governance principles, included rights to receive information and right to inspection/audit, as well as right to exercise legal leverage in case of failure to prevent or mitigate human rights abuses, in their contracts/agreements with its business partners. Such contractual terms are followed up by the organisation through active dialogue and other mechanism to assure the organisation that the undertakings are well understood.	1	There is mention of the need for ethical practices in contracts, but there is no registry confirming that business partners or suppliers have confirmed that they have human rights policies in place, and there are no formats for self-assessments.
20	Prevent and mitigate	The organisation uses different strategies to build leverage over its business relationships, including cooperation with other actors, industry organisations or others.	2	The organisation works with the Contact point and ILO on human rights matters.
21	Prevent and mitigate	The organisation supports relevant suppliers and other business relationships in prevention and mitigation of negative human rights impacts, e.g. through training, upgrading of facilities or strengthening of management systems.	2	The organisation works with the Contact Point and supports training and awareness raising on human rights. Both visited embassies have conducted seminars for Norwegian businesses in the case countries. Norad also supports projects such as the Ethical Trading Initiative Norway, to support ethical practices in businesses and value chains.
22	Prevent and mitigate	The organisation has procedures or guidelines for disengagement from suppliers or other business relationships in cases when risk and/or negative impacts continue after failed attempts to prevent and mitigate.	1	Policies do state that the organisation should disengage from suppliers or partners that do not follow ethical guidelines, but the organisation can give no examples of where this has happened.
23	Prevent and mitigate	The organisation is, when appropriate, engaging with governments in countries where negative human rights impacts are occurring, with a view to encourage local authorities to address prevailing human rights issues through inspections or changes to regulatory framework.	1	The organisation does engage with partner governments and follows up on changes in regulations. There is, however, little systematic effort to map the human rights situation in partner countries in regards to issues that relate to human rights and business.
24	Prevent and mitigate	No key performance indicators work against proper HRDD, and the organisation has clear policies and systems in place in order to solve conflicts between respecting human rights and meeting business objectives.	NA	Difficult to answer this, as there are political costs associated with taking a principled stand - these could be seen to be disincentives, but hard to see how it could be otherwise.

ID	Core element	Sub-element	Score	Justification for scoring
25	Tracking performance	The organisation has developed indicators and systems in order to track the effectiveness and responses to human rights impacts, in particular impacts on individuals or groups which may be of heightened risks, and this is used to drive continuous improvement.	0	The reporting requirements do include reporting on human rights impacts and risks, but there is no system in place for tracking.
26	Tracking performance	The tracking is done periodically.	1	Tracking is done in conjunction with field visits and review of periodic reporting, although there is no set requirement to cover human rights.
27	Tracking performance	The tracking is based on feedback from stakeholders and input from grievance mechanisms and other feedback-loops.	1	Follow up of human rights impacts is the responsibility of the project officer. There are grievance mechanisms in place, but no recorded reports received on human rights abuses. There is no systems in place to learn from grievances.
28	Communication	The organisation communicates externally on how they address their human rights impacts. Communications reflects the organisation's actual human rights impacts and is accessible to actually or potentially impacted persons and other stakeholders, including investors.	1	There is no systematic reporting of how the organisation has addressed human rights impacts.
29	Communication	The communications pose no risk to affected stakeholders or others, or breaches confidentiality requirements.	3	There is no communication that poses risks to stakeholders.
30	Communication	The information provided is sufficient to evaluate the adequacy of the organisation's response to the particular human rights impacts involved.	1	Human rights issues may be covered in reporting, but this is not done in a systematic manner, and is not a requirement.
31	Communication	When the operations or the operating context pose risks of severe human rights impacts, the organisation reports formally, annually or otherwise periodically, on its HRDD, including policies, procedures and activities undertaken.	1	There should be coverage on human rights risks in periodic reporting where severe risks have been identified, but this is not systematic.
32	Communication	The organisation communicates with impacted stakeholders on concerns raised by them, relevant human rights risks and actions taken.	1	This can take place during field visits, but it is not systematic.
33	Remediation	The organisation enables effective remedy if people are harmed by its actions or decisions in relation to a salient human rights issue.	1	There are defined processes for how to enable remedy following reports of abuse, but they are primarily geared towards corruption. Very few cases of human rights reports, and none reported that have led to remedy.

ID	Core element	Sub-element	Score	Justification for scoring
34	Remediation	The organisation has established or participate in operational-level grievance mechanisms that are legitimate, accessible, predictable, equitable, transparent and rights-compatible.	1	There are no detailed procedures for grievance mechanisms for human rights abuses, and for ensuring that these are well communicated on the ground.
35	Remediation	The grievance mechanisms are based on engagement and dialogue, including consultations with affected stakeholder groups about design and performance of the mechanism.	1	See above.
36	Remediation	The grievance mechanism is a source of continuous learning for the organisation, and input from the grievance mechanism is regularly used to improve the organisation's understanding of its human rights impacts, and to better its policies, procedures and practices.	1	There is not a register for grievance mechanism for human rights that is used by the Section for private sector development or other sections supporting business operations. Few reports and little demonstrable learning.

Annex 21: HRDD Quality Assessment – Norfund

Core element	Quality	Total attainable score	Total score	Percentage	Average score
Identify and assess	Does the HRDD continually identify, assess and prioritises the relevant human right risks that may impact relevant stakeholders (including gender sensitive risks) according to the context of operation and value chain.	27	16	59 %	1,78
Prevent and mitigate	Has the HRDD been implemented within the organisation, in its projects and value chain	36	20	56 %	1,67
Tracking performance	Is the HRDD performance periodically tracked through use of indicators and systems to ensure that negative human rights impacts are being prevented taking into account stakeholder feedback.	9	4	44 %	1,33
Communication	Does the organisation communicate on its management of HRDD externally and in particular to impacted stakeholders on specific issues.	15	7	47 %	1,40
Remediation	Is a grievance mechanism in place and remediation provided for negative human rights impacts.	12	6	50 %	1,50

Scoring legend	
3 - Fully aligned	All elements are of high quality and in place
2 - Partially aligned	Most elements in place, but quality vary and opportunities for improvements
1 - Not adequate	Only few elements are in place and / or the quality is poor
0 - Nothing	None of the elements are in place
NA	Not possible to assess

ID	Core element	Sub-element	Score	Justification for scoring
1	Identify and assess	A policy commitment on human rights is in place. It is based upon recognised international conventions and standards and approved by senior management. It clearly communicates the human rights expectations of employees and partners throughout the value chain of its operations, products and services.	1	<p>Norfund does not have a stand alone human rights policy and does not refer to UNGP in any of its steering documents. Norfund does not commit to undertake HRDD in accordance with UNGP. Norfund's approach is laid down in its Principles for corporate governance, which define as part of its responsibility to "ensure that health, the environment and human rights are protected and promoted (as specified by the International Finance Corporation, the World Bank and the International Labour Organisation's core conventions)." Norfund's Principles for environmental and social responsibility further state that "investment projects must comply with recognised environmental and social standards, and with national legislation and regulations", and that the company "will strive to ensure that the health, safety and human rights of employees are valued and protected". They make the IFC Performance Standards "mandatory for lenders and companies in which Norfund is an owner".</p> <p>Both documents have been adopted by Norfund's Board.</p> <p>Norfund's policies with reference to human rights do not refer to the UNGP.</p>
2	Identify and assess	Responsibilities for the policy commitment are clearly allocated on management and operational level.	2	<p>The Principles for corporate governance specify the responsibilities of the Board and the Managing Director. The Board is in particular responsible for ensuring that business is conducted in line with "commercial principles, the value base and ethical guidelines". The Managing Director is required to follow the guidelines issued by the Board, and responsible for establishing systems to ensure that they are complied with.</p> <p>For projects within certain amount and risk classification limits, the Board has delegated investment authority to the CEO, subject to approval from Norfund's Investment Committee. The Investment manual specifies that all investments should be consistent with Norfund's approved strategy and guidelines. It outlines the decision-making process and the project cycle applicable to all investments, and specifies how Environmental, Social and Governance (ESG) issues should be addressed. At operational level, they have a dedicated member of the staff in charge of ESG issues.</p> <p>Norfund's Code of Conduct outlines the organisation's ethical guidelines. It specifies that Norfund's employees shall observe national and international law, communicate ethical guidelines to partners and "support assessment of all investments to the Norfund exclusion list, the IFC Standards [...] and promote these standards during the entire business period."</p>

			However, no reference is made to human rights as such, and responsibilities for ESG issues are narrower in scope.
3	Identify and assess	The policy commitment is embedded in the organisation through internal communication and other activities.	2 Norfund's policy, including its requirement that IFC PS are mandatory for lenders and investee companies is communicated to the staff during the induction training and the annual Norfund week. However, UNGP is not part of this training or communication. Key ESG issues and lessons learned across projects are discussed in department meetings. The process is documented, but it could be made more systematic.
4	Identify and assess	The HRDD considers risks and impacts arising both from the organisation's own activities as well as risks and impacts that are directly linked to the organisation's operations and products and service. It assesses whether the organisation causes or contributes to the negative impact, or whether its operations, products or services are directly linked to the negative impact through a business relationship, even if the organisation has not caused or contributed to the impact itself.	2 The IFC Performance Standard 1 specifies the process of human rights risk identification within a defined 'project area' and 'area of influence'. This covers less than UNGP and has another focus ("area of influence") than UNGP ("direct link"). In addition, the risk-assessments, at least in some cases, are more focussed on risks to the project than risks to rights-holders. According to Norfund, the "bottom up-process" defined in the IFC performance standards are adapted to its investment activities but from this evaluation's standpoint, Norfund's approach could be more systematic.
5	Identify and assess	The HRDD identifies and assesses the human right risks in the relevant countries, local environment, industry and company.	2 Norfund's strategy consists in focusing in specific sectors and regions, and to develop local presence and expertise in these sectors and regions. Prior to investing in a new country or sector, Norfund commissions specific studies and reaches out to local stakeholders to familiarise itself with the local context, in particular with ESG risk factors. The annual macro-risk report provides information on the state of political rights and civil liberties and on corruption risks in project countries.

			The due diligence process, which follows the IFC PS, identifies project related risks. SGE risks are typically assessed on the basis of an Environmental and Social Impact Assessment (ESIA). However, the due diligence is not systematically conducted in depth and does not explicitly consider the standpoint of right holders.
6	Identify and assess	The HRDD identifies affected stakeholders, consults with them in good faith and incorporates their particular insight and perspectives in the risk-assessment.	2 The IFC PS require to identify and involve affected stakeholders, and define their rights to be informed, consulted and in some instances asked for their consent. When evaluating a company prior to investment, Norfund assesses its engagement with stakeholders during project development. Stakeholder analysis and involvement is also part of the ESIA process. For complex projects, Norfund requires the company to adopt a stakeholder plan to follow during operations. Norfund meets with stakeholders during site visits, but has not developed a systematic process for doing so, and often does not engage stakeholders beyond the initial due diligence.
7	Identify and assess	The HRDD identifies and assesses risk for vulnerable groups including indigenous peoples, marginalized groups, disabled people.	2 IFC PS 1 (on the assessment and management of environmental and social risks and impacts), PS 5 (on land acquisition and involuntary resettlement) and PS 7 (on indigenous peoples) contain provisions regarding vulnerable groups. But these standards are not always applied thoroughly. Norfund's risk-assessments, at least in some cases, seems to be more focussed on risks to the project rather than risks to rights-holders.
8	Identify and assess	The HRDD identifies and assesses gender sensitive risks.	3 IFC PS 1 (on the assessment and management of environmental and social risks and impacts), PS 2 (on labour and working conditions), PS 4 (on community health, safety and security) and PS 5 (on land acquisition and involuntary resettlement) contain provisions regarding gender risks. In addition, Norfund has adapted a new gender strategy, and assess workforce balance in all projects.
9	Identify and assess	The HRDD makes special arrangements to ensure that the most vulnerable groups are involved and engaged.	1 The inclusion of vulnerable groups is in principle part of the ESIA process, and also of resettlement and livelihood restoration planning as per IFC PS 5. Norfund relies on the investee and on external consultants for this work, and does not seek to systematically assure due diligence.
10	Identify and assess	When parts of the value chain are difficult to reach, are invisible or the organisation lacks leverage over suppliers deep in the supply chain, the HRDD seeks to solve such challenges by using, when appropriate and practical, fit-for-purpose tools. Like identification of "control points" in the value chain - i.e. suppliers that can	1 Norfund's efforts to transfer obligations along the value chain (in accordance with IFC PS 1) are ad hoc and calibrated in accordance with project size and sector. In energy projects, for instance, contractual requirements generally impose compliance with IFC PS to contractors. In agricultural projects, that is seldom the case.

		be controlled and have several business relationships deeper in the value chain - and focus on evaluation of, and information from, these actors.		
11	Identify and assess	The HRDD prioritizes the human rights risks with a view to identify the most salient risks, based on how grave and how widespread the risk is, as well as remediability and the likelihood of occurrence in the future. Prioritization is based on internal and external expertise, and, in particular, stakeholder input.	1	Norfund's Investment Manual includes guidelines for risk categorisation on the basis of likelihood of occurrence and severity of impact. The focus is on the residual risk, accounting for the effect of mitigation and remedy actions on the initial (inherent) risk. ESG is one of the risk areas. Risk factors are also assessed as part of the ESIA process. Norfund's approach, however, is not very detailed concerning ESG risks, and does not specify how inputs from stakeholders should be included in risk assessments. Moreover, the risk-assessment is, at least in some case, more focussed on risks to the project rather than risks to rights-holders.
12	Identify and assess	The assessment of human rights risks is revisited and repeated with regular intervals and when the operations and/or their context changes significantly, and/or new products are introduced and/or information calls for reassessment.	2	Norfund updates its risk assessments for all projects, and revises them for high-risk projects, on an annual basis - but as stated previously, ESG risk categories are not very detailed. Routine inspections (annual) and in-depth audit inspections (once every 2 years for high-risk projects) seek to assess new risk factors. Within projects, environmental and social management systems (ESMS), social and environmental managers and community liaison officers, and grievance mechanisms also provide mechanisms for continually assessing risks.
13	Prevent and mitigate	The organisation integrates the risks and negative impacts that are identified and integrates these in plans and procedures that includes fit-for-purpose and effective actions to avoid, prevent and/or mitigate the concrete risks and negative impacts.	2	The ESIA typically leads to an action plan to set up an Environmental and Social Management System (ESMS) - or to improve the existing - in order to address the identified impacts. However, the implementation of the action plan can be incomplete or significantly delayed.
14	Prevent and mitigate	The organisation provides fit-for-purpose training for relevant staff and management in own organisation.	2	New employees receive ESG briefing during their induction. Staff also receive training internally or, for fund managers, externally. The focus, however, is on ESG and not on human rights more broadly. The training is not based on UNGP. Norfund also uses grant funds to support the training of key staff at investee level, and requires that key functions be filled with suitably trained people (e.g. environmental manager, community liaison officer, health and safety manager).
15	Prevent and mitigate	The organisation consults and cooperates with workers and their representatives as well as affected stakeholders to develop appropriate actions.	2	Workers' representatives and other stakeholders are typically consulted during ESIA conducted by external consultants. When Norfund carries out its own due diligence, it also engages directly in stakeholder dialogue with affected stakeholders - including workers and/or union representatives - and reviews

			human-resource procedures within the project and among contractors. However, interactions are limited outside of the due diligence phase.
16	Prevent and mitigate	The organisation stops any own action or operation that it is causing or contributing to negative human rights impacts, and develop plans to prevent and mitigate future negative impacts stemming from the organisation's own activities.	2 The reference to the IFC PS in Norfund's legal agreements grant the company a legal right to declare default in situations in which investees would operate with sub-standard performance. Norfund normally also sits on the board of investee companies and can use this position to push for corrective actions. However, as a minority investor, Norfund sometimes has to muddle through to try and maximise its influence.
17	Prevent and mitigate	The organisation has developed pre-qualification procedures for suppliers and other business relationships based on HRDD.	1 Norfund does not use social or environmental standards as pre-qualification criteria. Its focus is on transferring IFC PS to suppliers as contractual obligations, an approach that Norfund considers more adapted to its operations.
18	Prevent and mitigate	The organisation communicates clear expectations to its suppliers and business partners, throughout the value chain, that they shall respect human rights and that appropriate and effective HRDD shall be undertaken.	1 Supply chain responsibility is addressed by IFC PS 1. Norfund's approach to transferring obligations accounts for the specific conditions of the investee, such as its size and sector. But the approach does not address the entire value chain, has not been systematised and remains ad hoc.
19	Prevent and mitigate	The organisation has, in accordance with regulatory obligations and renowned governance principles, included rights to receive information and right to inspection/audit, as well as right to exercise legal leverage in case of failure to prevent or mitigate human rights abuses, in its contracts/agreements with its business partners. Such contractual terms are followed up by the organisation through active dialogue and other mechanisms to assure the organisation that the undertakings are well understood.	3 All Norfund loan and shareholder agreements provide for both information and visitation rights (either by Norfund itself or by appointed consultants) to ensure compliance with IFC PS. Companies are obliged to self-report to Norfund at given intervals and an appointed Lenders or Owners Engineer oversees the implementation of mitigation plans, handling of grievances, suitability of staffing arrangements, etc. Norfund uses visits and its presence on the Board of companies to establish a dialogue on ESG issues.
20	Prevent and mitigate	The organisation uses different strategies to build leverage over its business relationships, including cooperation with other actors, industry organisations or others.	2 Norfund has three levels of engagement depending on the nature of an investment: as an active owner, as portfolio management, or as portfolio monitoring. Norfund promotes ESG obligations as part of its active ownership strategy (through the board function and through reporting and monitoring arrangements) and as a lender (by tying ESG condition precedents to the disbursement schedule). Also, Norfund co-operates with other similar investors financing the company to assure the right level of attention and performance. In other circumstances, however,

			Norfund has to cooperate with partners that do not have the same level of requirement on ESG issues, and the risks related to such situations could be better assessed.
21	Prevent and mitigate	The organisation supports relevant suppliers and other business relationships in prevention and mitigation of negative human rights impacts, e.g. through training, upgrading of facilities or strengthening of management systems.	1 Norfund supports training and systems development through grant facility projects. Although the grant facility is not primarily oriented towards human rights actions, it has been used in several cases to fund ESG interventions, e.g. to reduce environmental emissions, improve worker safety, or increase female representation in management positions. ESG interventions funded by the grant facility have not targeted business partners of Norfund's investees.
22	Prevent and mitigate	The organisation has procedures or guidelines for disengagement from suppliers or other business relationships in cases when risk and/or negative impacts continue after failed attempts to prevent and mitigate.	2 Norfund's agreements allow it to opt out from an investment in cases of non-compliance with IFC PS. Similar requirements are implemented for suppliers of the investee in certain cases (and on ad hoc basis). In construction projects, for instance, repeated violations of agreed health and safety plans etc. constitute a breach of contract and can lead to termination of the contract between appointed contractors and project company financed by Norfund. In practice, however, such cases are extremely rare, and Norfund has to compromise with less serious infringements on its ESG requirements.
23	Prevent and mitigate	The organisation is, when appropriate, engaging with governments in countries where negative human rights impacts are occurring, with a view to encourage local authorities to address prevailing human rights issues through inspections or changes to regulatory framework.	0 Norfund does not see it as part of its responsibility to engage with governments on human rights issues beyond the strict scope of its investments.
24	Prevent and mitigate	No key performance indicators works against proper HRDD, and the organisation has clear policies and systems in place in order to solve conflicts between respecting human rights and meeting business objectives.	2 There are no conflicting KPIs in Norfund preventing proper due diligence work. At project level, Norfund intervenes as a board member to ensure that ESG plans are not given low priority. Potential trade-offs between ESG and business development objectives are addressed on a case-by-case basis.
25	Tracking performance	The organisation has developed indicators and systems in order to track the effectiveness and responses to human rights impacts, in particular impacts on individuals or groups which may be of heightened risks, and this is used to drive continuous improvement.	1 In conformity with IFC PS 1, Norfund requires the adoption of an ESMS and regular reporting by investees on its results, with continuous improvement as an objective. During its inspections, Norfund directly assesses the effectiveness of the system and the human rights outcomes. However, Norfund does not have a framework based on systematic procedures and indicators to guide this work. Norfund argues that given the range of its projects, a "uniform indicator-based tracking system would be challenging to establish".

26	Tracking performance	The tracking is done periodically.	2	Norfund's Investment Manual specifies that all projects shall report annually on ESG performance, while high-risk project shall report quarterly by an appointed external consultant. When investing equity, Norfund also typically receives monthly management reports covering health and safety and general ESG performance. For high-risk projects, Norfund conducts annual inspections and risk appraisal updates.
27	Tracking performance	The tracking is based on feedback from stakeholders and input from grievance mechanisms and other feedback-loops.	1	In conformity with IFC PS1, Norfund requires the implementation of a stakeholder engagement plan and a project-specific grievance mechanism. These feed into the project's ESMS and inform management decisions in the company. However, Norfund's own tracking is not specifically based on stakeholder feedback.
28	Communication	The organisation communicates externally on how they address their human rights impacts. Communications reflects the organisation's actual human rights impacts and is accessible to actually or potentially impacted persons and other stakeholders, including investors.	1	In conformity with IFC PS1, Norfund's investees have to make ESIAs available and communicate on their ESG policy and stakeholder engagement plan. Norfund itself includes a general section on human rights in its Annual Report, but does not publish information on project-specific issues.
29	Communication	The communications pose no risk to affected stakeholders or others, or breach confidentiality requirements.	3	Norfund does not publish information regarding affected individuals and treats information on ESG performance as confidential, and requires its investees to act likewise.
30	Communication	The information provided is sufficient to evaluate the adequacy of the organisation's response to the particular human rights impacts involved.	1	The information on human rights impacts published by Norfund is of a general nature and does not enable external parties to have a clear understanding of the human rights challenges it faces and the actions it undertakes in response to those challenges.
31	Communication	When the operations or the operating context pose risks of severe human rights impacts, the organisation reports formally, annually or otherwise periodically, on its HRDD, including policies, procedures and activities undertaken.	1	Norfund has specific monitoring and reporting requirements for high-risk projects, but does not communicate specifically on these risks.
32	Communication	The organisation communicates with impacted stakeholders on concerns raised by them, relevant human rights risks and actions taken.	1	As part of its monitoring activities, Norfund ensures that stakeholder engagement plans are in place and that the Community Liaison Officer (CLO) function and grievance mechanism are operating at project level. However, it does not engage in direct communication with impacted stakeholders beyond the initial due diligence.

33	Remediation	The organisation enables effective remedy if people are harmed by its actions or decisions in relation to a salient human rights issue.	2	Norfund ensures that compensation measures in line with IFC PS (such as resettlement and livelihood restoration plans) are included in project management plans, and monitors their implementation. Unforeseen harm requiring remedy is identified through project-specific grievance mechanisms, and when serious harm is documented, Norfund has as a policy to ensure that the investee conducts proper investigation and proposes adequate compensation arrangements. There are, however, not procedures in place to ensure that the investee's processes are sufficient to capture salient risks that are specific to project context, such as loss of land and ensure that adequate compensation is paid.
34	Remediation	The organisation has established or participate in operational-level grievance mechanisms that are legitimate, accessible, predictable, equitable, transparent and rights-compatible.	2	IFC PS requires a project-specific grievance mechanism covering both affected stakeholders and workers. In the due diligence phase, Norfund assesses whether a grievance mechanism is in place in the project and whether it is effective. Norfund itself does not have a grievance mechanism, but states that it is covered by the grievance mechanism of the Norwegian Ministry of Foreign Affairs. Norfund does not have a register for grievances.
35	Remediation	The grievance mechanisms are based on engagement and dialogue, including consultations with affected stakeholder groups about design and performance of the mechanism.	1	The role of the project CLO includes explaining and disseminating the grievance mechanism in the local communities. But the grievance mechanisms are not specifically and systematically designed on the basis of stakeholder views and inputs.
36	Remediation	The grievance mechanism is a source of continuous learning for the organisation, and input from the grievance mechanism is regularly used to improve the organisation's understanding of its human rights impacts, and to better its policies, procedures and practices.	1	Norfund has used grievances in order to improve ESG approaches in some of its projects. However, Norfund does not have a mechanism in place to learn lessons and share them across its portfolio of projects.

Annex 22: HRDD Quality Assessment – GIEK

Core element	Quality	Total attainable score	Total score	Percentage	Average score
Identify and assess	Does the HRDD continually identify, assess and prioritises the relevant human right risks that may impact relevant stakeholders (including gender sensitive risks) according to the context of operation and value chain.	36	25	69 %	2,08
Prevent and mitigate	Has the HRDD been implemented within the organisation, in its projects and value chain	33	22	67 %	2,00
Tracking performance	Is the HRDD performance periodically tracked through use of indicators and systems to ensure that negative human rights impacts are being prevented taking into account stakeholder feedback.	9	5	56 %	1,67
Communication	Does the organisation communicate on its management of HRDD externally and in particular to impacted stakeholders on specific issues.	15	8	53 %	1,60
Remediation	Is a grievance mechanism in place and remediation provided for negative human rights impacts.	12	6	50 %	1,50

Scoring legend	
3 - Fully aligned	All elements are of high quality and in place
2 - Partially aligned	Most elements in place, but quality vary and opportunities for improvements
1 - Not adequate	Only few elements are in place and / or the quality is poor
0 - Nothing	None of the elements are in place
NA	Not possible to assess

ID	Core element	Sub-element	Score	Justification for Scoring
1	Identify and assess	A policy commitment on human rights is in place. It is based upon recognised international conventions and standards and approved by senior management. It clearly communicates the human rights expectations of employees and partners throughout the value chain of its operations, products and services.	3	The organisation has a stand-alone environmental and human rights policy which is publicly available and has been approved by the board. The policy commits to national and international standards including white paper on Corporate Social Responsibility, OECD common approaches, World Bank and IFC performance standards and UNGP in addition to compliance with local laws and regulations. Its scope includes identifying and assessing actual and potential impacts and seeks to prevent, mitigate and remediate adverse impacts, monitoring and communicating of impacts. The policy covers all transactions and states that human rights issues are included in risk assessment and that clients are assisted with practical and solution-oriented advice for managing risks. It does not communicate organisation's expectations of employees and business partners. The commitment to consider human rights risks is in the evaluation of projects.
2	Identify and assess	Responsibilities for the policy commitment are clearly allocated on management and operational level.	2	The environmental and human rights policy is dated and the evaluation team has been informed that it is approved by the board. Responsibilities are allocated to Legal director, ESG team, and case handlers, however, this is stated in internal procedural guidelines and not in the policy itself.
3	Identify and assess	The policy commitment is embedded in the organisation through internal communication and other activities.	3	The policy is clearly embedded in the organisation through procedures, case evaluations, communication with clients etc. GIEK is also in the process of developing a statement of commitment for clients to sign regarding UNGP and anticipate need for awareness raising amongst its clients.
4	Identify and assess	The HRDD considers risks and impacts arising both from the organisation's own activities as well as risks and impacts that are directly linked to the organisation's operations and products and service. It assesses whether the organisation causes or contributes to the negative impact, or whether its operations, products or services are directly linked to the negative impact through a business relationship, even if the organisation has not caused or contributed to the impact itself.	2	The organisation's main activity is project related. Based on a risk assessment, the material human rights risks are in the projects GIEK provides guarantees for, and these are therefore the focus of the HRDD. General internal procedures consequently require HRDD of all projects in accordance with UNGP, OECD and IFC. A specific procedure for Human Rights Due Diligence is also in place.

5	Identify and assess	The HRDD identifies and assesses the human right risks in the relevant countries, local environment, industry and company.	3	<p>The HRDD covers all material projects in all countries and has a systematic approach to country risk assessments. No countries are excluded from the assessment. The HRDD also specifies particular attention to potentially high risk sectors and has specific routines for key activities such as existing operations, associated facilities and supply chain. Regarding client companies, GIEK assesses their ability to conduct risk assessment and provide further assistance and awareness raising. GIEK employs local consultants to gain insights into legal requirements and compliance, e.g. risks in the specific sector and topics such as overtime and shipyards. GIEK conducts assessments prior to entering into specific countries. Obtains information also through Paris club, Berne etc.</p> <p>GIEK has identified specific high risk countries and specify in contracts that no activities are allowed in these countries.</p>
6	Identify and assess	The HRDD identifies affected stakeholders, consults with them in good faith and incorporates their particular insight and perspectives in the risk-assessment.	2	For A and some B projects, it is required that the impact assessments involve consultation process with affected stakeholders. The organisation reviews findings from impact assessments including required stakeholder consultation process for A and relevant B projects and may, themselves, consult stakeholders during site visits.
7	Identify and assess	The HRDD identifies and assesses risks for vulnerable groups including indigenous peoples, marginalized groups, disabled people.	2	The HRDD specifies that independent impact assessments are conducted for category A and some B projects. These include stakeholder identification and consultation and the organisation will assess the quality of the findings. The procedures open for consultation with expert stakeholders to support the assessment process.
8	Identify and assess	The HRDD identifies and assesses gender sensitive risks.	2	Gender sensitive risks are not specified in the HRDD specifically, but is covered in checklist that are used for e.g. site visits at shipyards and contractor assessments.
9	Identify and assess	The HRDD makes special arrangements to ensure that the most vulnerable groups are involved and engaged.	1	The HRDD specifies that independent impact assessments are conducted for category A and some B projects. These include stakeholder identification, and the organisation will assess the quality of the findings. The procedures open for consultation with expert stakeholders to support the assessment process.
10	Identify and assess	When parts of the value chain are difficult to reach, are invisible or the organisation lacks leverage over suppliers deep in the supply chain, the HRDD seeks to solve such challenges by using, when appropriate and practical, fit-for-purpose tools. Like identification of "control points" in the value chain - i.e. suppliers that can be controlled and also has several business relationships deeper	2	<p>Suppliers and affiliated facilities are included in the HRDD, but it is not described how complex and intransparent supply chains are to be managed. The focus of the HRDD is on projects and not GIEK's own supply chain as this is where the largest risks are. Moreover, checklist are used to assess human rights risks for contractors.</p> <p>For complex clients, they conduct site visits and look into how they assess the risks in the supply chain. Level of assessment is based on case specific risk assessments.</p>

		in the value chain - and focus on evaluation of, and information from, these actors.	
11	Identify and assess	The HRDD prioritizes the human rights risks with a view to identify the most salient risks, based on how grave and how widespread the risk is, as well as remediability and the likelihood of occurrence in the future. Prioritization is based on internal and external expertise, and, in particular, stakeholder input.	2 The risks are assessed at the start of the evaluation of all projects, and classified according to OECD categories A, B and C. The risk assessment is based on competence and experience. In borderline cases, the final classification awaits the assessment process. For A, and some B, projects, impact assessments are required. Final evaluation of risks, including actual and potential human right risks, is conducted prior to contract engagement. However, it is not clear if the categorisation can be altered during the process, particularly related to lower risk category C projects.
12	Identify and assess	The assessment of human rights risks is revisited and repeated with regular intervals and when the operations and/or their context changes significantly, and/or new products are introduced and/or information calls for reassessment.	1 The organisation uses land risk tools and assessments, but it is not known the HRDD is updated when conditions change and impact the risk picture. It is recognised that HRDD is a moving target and updated in connection with new projects. Adjustments are made more from project to project, than within ongoing projects.
13	Prevent and mitigate	The organisation integrates the risks and negative impacts that are identified and integrates these in plans and procedures that include fit-for-purpose and effective actions to avoid, prevent and/or mitigate the concrete risks and negative impacts.	2 The organisation has implemented programmes for assessing potential human rights risks and this is part of the evaluation of A and material B projects prior to contract engagement. Independent impact assessments are conducted which include actions to avoid, mitigate and remediate identified impacts. Conditions may be included in the contract if relevant, e.g. to implement actions in the project.
14	Prevent and mitigate	The organisation provides fit-for-purpose training for relevant staff and management in own organisation.	2 The organisation has a tight team which is highly competent. Awareness of other staff is provided during evaluation of actual projects. Awareness of human rights issues is also conducted towards clients.
15	Prevent and mitigate	The organisation consults and cooperates with workers and their representatives as well as affected stakeholders to develop appropriate actions.	2 The organisation specifies in impact assessments for relevant projects that this is included in the scope. Employees are consulted during site visits.

16	Prevent and mitigate	The organisation stops any own action or operation that it is causing or contributing to negative human rights impacts, and develop plans to prevent and mitigate future negative impacts stemming from the organisation's own activities.	NA	GIEK does not have any "own operations" on the ground.
17	Prevent and mitigate	The organisation has developed pre-qualification procedures for suppliers and other business relationships based on HRDD.	2	The HRDD includes assessments of clients and their suppliers and (sub) contractors involved in the projects, but pre-qualifications is not applicable for the operations of GIEK.
18	Prevent and mitigate	The organisation communicates clear expectations to their suppliers and business partners, throughout the value-chain, that they shall respect human rights and that appropriate and effective HRDD be undertaken by their suppliers and business partners.	2	The organisation clearly communicates its human rights policy and requirements to clients and partners in order for projects to comply with UNGP, local laws, IFC performance standards, action plans following findings of impact assessments etc.
19	Prevent and mitigate	The organisation has, in accordance with regulatory obligations and renowned governance principles, included rights to receive information and right to inspection/audit, as well as right to exercise legal leverage in case of failure to prevent or mitigate human rights abuses, in their contracts/agreements with its business partners. Such contractual terms are followed up by the organisation through active dialogue and other mechanism to assure the organisation that the undertakings are well understood.	2	The organisation reserves the right to receive information or conducting audits either by own staff or independent third party.
20	Prevent and mitigate	The organisation uses different strategies to build leverage over its business relationships, including cooperation with other actors, industry organisations or others.	2	The organisation actively cooperates with peers and participates in industry organisations to raise awareness of human rights issues in projects and exchange best practice. Depending upon level of leverage, the organisation actively promotes implementation of measures to reduce or manage negative impacts as conditions to enter into contract.
21	Prevent and mitigate	The organisation supports relevant suppliers and other business relationships in prevention and mitigation of negative human rights impacts, e.g. through training, upgrading of facilities or strengthening of management systems.	2	The organisation provides awareness raising as part of its process of approving projects towards clients. The organisation also provides support to clients e.g. in obtaining independent impact assessments for projects. If issues cannot be solved prior to contract, specific conditions may be included in the contract and followed up. However, the organisation can further strengthen its systematic approach to continuous follow-up of these conditions in the relevant projects.

22	Prevent and mitigate	The organisation has procedures or guidelines for disengagement from suppliers or other business relationships in cases when risk and/or negative impacts continue after failed attempts to prevent and mitigate.	2	Procedures specify that, depending upon severity, the organisation may include remediation periods and potential stoppage or delay of financing if this eventuality is covered in the contract. However, in practice it may be difficult to stop activities after contracts and in case of low leverage.
23	Prevent and mitigate	The organisation is, when appropriate, engaging with governments in countries where negative human rights impacts are occurring, with a view to encourage local authorities to address prevailing human rights issues through inspections or changes to regulatory framework.	2	Occasionally have meetings with authorities regarding expectations from international arena regarding ESG.
24	Prevent and mitigate	No key performance indicators work against proper HRDD, and the organisation has clear policies and systems in place in order to solve conflicts between respecting human rights and meeting business objectives.	2	No KPIs hindering proper HRDD have been identified. Management is strongly committed to safeguarding human rights in the projects. There is an aim of issuing guarantees, and they need solid documentation on ESG risks to refuse cases. However, is occasionally occurs that cases are refused on ESG grounds.
25	Tracking performance	The organisation has developed indicators and systems in order to track the effectiveness and responses to human rights impacts, in particular impacts on individuals or groups which may be of heightened risks, and this is used to drive continuous improvement.	2	Management plans for material projects (A&B), including human rights issues, are developed for implementation, monitoring and reporting following results of impact assessments. For projects where GIEK cooperates with Eksportkredit, the latter is responsible for monitoring. Yet, GIEK can strengthen its systematic approach to monitoring. Other B and C projects are followed up through screening service (see row 26 below).
26	Tracking performance	The tracking is done periodically.	2	The organisation employs a public source tracking system notifying potential human rights issues related to the projects in its portfolio. Follow-up of contract conditions are registered, but systematic monitoring should be strengthened. GIEK is exploring possibilities for this.
27	Tracking performance	The tracking is based on feedback from stakeholders and input from grievance mechanisms and other feedback-loops.	1	The tracking is based on public information, including media. The organisation has also recently implemented a stakeholder feedback mechanism. However, it may be difficult to ensure that relevant stakeholders are aware of this information and feedback channel.
28	Communication	The organisation communicates externally on how they address their human rights impacts. Communications reflects the organisation's actual human rights impacts and is accessible to actually or potentially impacted persons and other stakeholders, including investors.	1	Policies, procedures are available on the organisation's web page. Moreover, potential projects and impact assessments of category A & B projects are publicly available prior to contract. Subsequent evaluation and decision are also available. However, this does not apply to all projects. Whilst information on the organisation's approach to human rights is described in the annual report, regular reporting on human rights performance etc. is not undertaken.

				Reports to OECD peers and owners. EIA assessments are published on the web page.
29	Communication	The communications pose no risk to affected stakeholders or others, or breaches confidentiality requirements.	3	It is an OECD requirement that EIA assessment are public. Will not publish information regarding specific cases that may emerge.
30	Communication	The information provided is sufficient to evaluate the adequacy of the organisation's response to the particular human rights impacts involved.	1	Policies and procedures are available on the organisation's web page. Moreover, potential projects and impact assessments of category A&B projects are publicly available prior to contract. Subsequent evaluation and decision are also available. However, this does not apply to all projects, such as ship yards. Whilst information on GIEK's approach to human rights is described in the annual report, regular reporting on human rights performance, and response to particular human rights impacts is not provided and the client is deemed responsible to report on negative impacts encountered in specific projects.
31	Communication	When the operations or the operating context pose risks of severe human rights impacts, the organisation reports formally, annually or otherwise periodically, on its HRDD, including policies, procedures and activities undertaken.	2	GIEK covers systematic information regarding ESG, but not yearly activities and results in annual report. Impact assessment results published on the web. A and B projects are required to have Environmental and Social Action Plan (ESAPs), and would be expected to report on these. It is the client who is expected to perform this, not GIEK directly.
32	Communication	The organisation communicates with impacted stakeholders on concerns raised by them, relevant human rights risks and actions taken.	1	All HRDD assessments for material projects are published on the organisation's webpage 30 days prior to entering contracts, with contact details for stakeholders to provide feedback. It is unclear how potential stakeholders are aware of this information source. It is understood that the organisation itself does not facilitate stakeholder consultations, including ensuring the right stakeholders are present, have the relevant information and means to engage. This is the responsibility of the clients.
33	Remediation	The organisation enables effective remedy if people are harmed by its actions or decisions in relation to a salient human rights issue.	2	Tracking: with repeat business, i.e. client requests new guarantees, this will be assessed as part of new projects. The systematic follow up can be improved.
34	Remediation	The organisation has established or participate in operational-level grievance mechanisms that are legitimate, accessible, predictable, equitable, transparent and rights-compatible.	2	It is a GIEK requirement that projects have grievance mechanisms. Has requirements that shall be notified if cases are reported. Have received a few reported cases.

35	Remediation	The grievance mechanisms are based on engagement and dialogue, including consultations with affected stakeholder groups about design and performance of the mechanism.	1	The organisation has implemented a "stakeholder feedback" mechanism on its webpage. However, it is unclear how well known this mechanism is amongst stakeholders and no cases have been reported. Moreover, a clause is included in contracts requiring notification of any major claims or grievances related to the projects.
36	Remediation	The grievance mechanism is a source of continuous learning for the organisation, and input from the grievance mechanism is regularly used to improve the organisation's understanding of its human rights impacts, and to better its policies, procedures and practices.	1	Very few grievances registered. Not clear that this has been used as a source of learning.

Annex 23: HRDD Quality Assessment – Innovation Norway

Core element	Quality	Total attainable score	Total score	Percentage	Average score
Identify and assess	Does the HRDD continually identify, assess and prioritises the relevant human right risks that may impact relevant stakeholders (including gender sensitive risks) according to the context of operation and value chain.	36	7	19 %	0,58
Prevent and mitigate	Has the HRDD been implemented within the organisation, in its projects and value chain	36	16	44 %	1,33
Tracking performance	Is the HRDD performance periodically tracked through use of indicators and systems to ensure that negative human rights impacts are being prevented taking into account stakeholder feedback.	9	-	0 %	-
Communication	Does the organisation communicate on its management of HRDD externally and in particular to impacted stakeholders on specific issues.	15	6	40 %	1,20
Remediation	Is a grievance mechanism in place and remediation provided for negative human rights impacts.	12	3	25 %	0,75

Scoring legend	
3 - Fully aligned	All elements are of high quality and in place
2 - Partially aligned	Most elements in place, but quality vary and opportunities for improvements
1 - Not adequate	Only few elements are in place and / or the quality is poor
0 - Nothing	None of the elements are in place
NA	Not possible to assess

ID	Core element	Sub-element	Score	Justification for scoring
1	Identify and assess	A policy commitment on human rights is in place. It is based upon recognised international conventions and standards and approved by senior management. It clearly communicates the human rights expectations of employees and partners throughout the value chain of its operations, products and services.	1	Innovation Norway does not have a specific policy on human rights; its Policy on Good Business Practice refers to international guidelines, but expectations are defined in broad terms and do not cover the range of UNGP requirements.
2	Identify and assess	Responsibilities for the policy commitment are clearly allocated on management and operational level.	2	Each project manager is expected to assess principles of good business practice and a team is responsible for support on related issues, including human rights.
3	Identify and assess	The policy commitment is embedded in the organisation through internal communication, training and other activities.	1	Project managers receive training on human rights. But there is no strong communication on human rights and business as Innovation Norway does not consider itself highly exposed to human rights risks.
4	Identify and assess	The HRDD considers risks and impacts arising both from the organisation's own activities as well as risks and impacts that are directly linked to the organisation's operations and products and service. It assesses whether the organisation causes or contributes to the negative impact, or whether its operations, products or services are directly linked to the negative impact through a business relationship, even if the organisation has not caused or contributed to the impact itself.	1	New programmes and schemes undergo a risk assessment where HR is on element, but this is not a proper HRDD process. Risk assessment is also conducted before opening a new office abroad and in specific projects such as large conventions.
5	Identify and assess	The HRDD identifies and assesses the human right risks in the relevant countries, local environment, industry and company.	1	As above.
6	Identify and assess	The HRDD identifies affected stakeholders, consults with them in good faith and incorporates their particular insight and perspectives in the risk-assessment.	0	As above.
7	Identify and assess	The HRDD identifies and assesses risks for vulnerable groups including indigenous peoples, marginalized groups, disabled people.	0	As above.
8	Identify and assess	The HRDD identifies and assesses gender sensitive risks.	0	As above.
9	Identify and assess	The HRDD makes special arrangements to ensure that the most vulnerable groups are involved and engaged.	0	As above.

10	Identify and assess	When parts of the value chain are difficult to reach, are invisible or the organisation lacks leverage over suppliers deep in the supply chain, the HRDD seeks to solve such challenges by using, when appropriate and practical, fit-for-purpose tools. Like identification of "control points" in the value chain - i.e. suppliers that can be controlled and also has several business relationships deeper in the value chain - and focus on evaluation of, and information from, these actors.	0	As above.
11	Identify and assess	The HRDD prioritizes the human rights risks with a view to identify the most salient risks, based on how grave and how widespread the risk is, as well as remediability and the likelihood of occurrence in the future. Prioritization is based on internal and external expertise, and, in particular, stakeholder input.	1	Risk factors are screened, but only based on self-declaration by businesses.
12	Identify and assess	The assessment of human rights risks is revisited and repeated with regular intervals and when the operations and/or their context changes significantly, and/or new products are introduced and/or information calls for reassessment.	0	There is no re-assessment.
13	Prevent and mitigate	The organisation integrates the risks and negative impacts that are identified and integrates these in plans and procedures that includes fit-for-purpose and effective actions to avoid, prevent and/or mitigate the concrete risks and negative impacts.	2	Risk-based guidelines on red flags have been developed, but risk management options are limited to providing advice and requiring the adoption of appropriate guidelines.
14	Prevent and mitigate	The organisation provides fit-for-purpose training for relevant staff and management in own organisation.	1	Project managers receive training on human rights.
15	Prevent and mitigate	The organisation consults and cooperates with workers and their representatives as well as affected stakeholders to develop appropriate actions.	0	Innovation Norway does not engage with project stakeholders from a human rights perspective.
16	Prevent and mitigate	The organisation stops any own action or operation that it is causing or contributing to negative human rights impacts, and develop plans to prevent and mitigate future negative impacts stemming from the organisation's own activities.	1	The red flags should in principle ensure that harmful actions are prevented or stopped, but not the escalation into organisation-level plans.
17	Prevent and mitigate	The organisation has developed pre-qualification procedures for suppliers and other business relationships based on HRDD.	0	There is no HRDD process.
18	Prevent and mitigate	The organisation communicates clear expectations to their suppliers and business partners, throughout the value-chain, that they shall respect human rights and that appropriate and effective HRDD be undertaken by their suppliers and business partners.	2	These expectations are communicated as part of the concept of good business practice.

19	Prevent and mitigate	The organisation has, in accordance with regulatory obligations and renowned governance principles, included rights to receive information and right to inspection/audit, as well as right to exercise legal leverage in case of failure to prevent or mitigate human rights abuses, in their contracts/agreements with its business partners. Such contractual terms are followed up by the organisation through active dialogue and other mechanism to assure the organisation that the undertakings are well understood.	2	Right to exercise leverage and to conduct audits is included in Innovation Norway's agreements.
20	Prevent and mitigate	The organisation uses different strategies to build leverage over its business relationships, including cooperation with other actors, industry organisations or others.	2	Innovation Norway promotes its approach to good business practice with various partners, including in NOREPS.
21	Prevent and mitigate	The organisation supports relevant suppliers and other business relationships in prevention and mitigation of negative human rights impacts, e.g. through training, upgrading of facilities or strengthening of management systems.	1	Innovation Norway simply provides advice on human rights impact prevention and mitigation to its partners.
22	Prevent and mitigate	The organisation has procedures or guidelines for disengagement from suppliers or other business relationships in cases when risk and/or negative impacts continue after failed attempts to prevent and mitigate.	2	This is possible in principle, but has never been practiced.
23	Prevent and mitigate	The organisation is, when appropriate, engaging with governments in countries where negative human rights impacts are occurring, with a view to encourage local authorities to address prevailing human rights issues through inspections or changes to regulatory framework.	1	IN performs training and communication on good business practice (including HR) to governmental parties within the EEA and Norway grants schemes.
24	Prevent and mitigate	No key performance indicators work against proper HRDD, and the organisation has clear policies and systems in place in order to solve conflicts between respecting human rights and meeting business objectives.	2	Respect for human rights is seen as a factor of good business practice and sustainability, but there is no proper HRDD.
25	Tracking performance	The organisation has developed indicators and systems in order to track the effectiveness and responses to human rights impacts, in particular impacts on individuals or groups which may be of heightened risks, and this is used to drive continuous improvement.	0	No tracking.
26	Tracking performance	The tracking is done periodically.	0	As above.
27	Tracking performance	The tracking is based on feedback from stakeholders and input from grievance mechanisms and other feedback-loops.	0	As above.
28	Communication	The organisation communicates externally on how they address their human rights impacts. Communications reflects the organisation's actual human rights impacts and is accessible to actually or potentially impacted persons and other stakeholders, including investors.	2	Bi-annual reporting on HR and section on HR in annual report; actual impacts are limited.

29	Communication	The communications pose no risk to affected stakeholders or others, or breaches confidentiality requirements.	3	No risk to stakeholders.
30	Communication	The information provided is sufficient to evaluate the adequacy of the organisation's response to the particular human rights impacts involved.	1	No detailed information.
31	Communication	When the operations or the operating context pose risks of severe human rights impacts, the organisation reports formally, annually or otherwise periodically, on its HRDD, including policies, procedures and activities undertaken.	0	No HRDD.
32	Communication	The organisation communicates with impacted stakeholders on concerns raised by them, relevant human rights risks and actions taken.	0	There is no communication with stakeholders on human rights impacts.
33	Remediation	The organisation enables effective remedy if people are harmed by its actions or decisions in relation to a salient human rights issue.	0	No remedy mechanism.
34	Remediation	The organisation has established or participate in operational-level grievance mechanisms that are legitimate, accessible, predictable, equitable, transparent and rights-compatible.	1	A general grievance mechanisms is being developed, but not at project level and there is no communication to potentially affected groups.
35	Remediation	The grievance mechanisms are based on engagement and dialogue, including consultations with affected stakeholder groups about design and performance of the mechanism.	1	As above.
36	Remediation	The grievance mechanism is a source of continuous learning for the organisation, and input from the grievance mechanism is regularly used to improve the organisation's understanding of its human rights impacts, and to better its policies, procedures and practices.	1	Human rights impacts have not been reported.



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