

**NATIONAL ACTION PLAN ON
BUSINESS AND HUMAN RIGHTS
CHILE**

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National Oil Company (ENAP)	
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Fundación Casa de la Paz	
National Human Rights Institute (INDH)	
Inter-Ministerial Working Group	

Public Health Institute (ISP)	
Ministry of Social Development (MDS)	
Ministry of Economy, Development and Tourism	
Ministry of Mining	
Ministry of Women and Gender Equality	
Ministry of Foreign Affairs	
Ministry of Labour	
Ministry of the Environment	
Global Compact	
National Contact Point for OECD Guidelines	
Environmental Assessment Service	
Superintendence of the Environment	
Under-Secretariat of Human Rights	
UNICEF	

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Ministries involved in the preparation of this Plan¹

Ministry of Foreign Affairs

Ministry of the General Secretariat of the Presidency

Ministry of the General Secretariat of the Government

Ministry of Economy, Development and Tourism

Ministry of Social Development

Ministry of Justice and Human Rights

Ministry of Labour and Social Security

Ministry of Mining

Ministry of Energy

Ministry of the Environment

Ministry of Women and Gender Equality

Glossary

Paris Agreement on Climate Change

International Agreement negotiated within the framework of the United Nations Framework Convention on Climate Change at the 21st Conference on Climate Change (COP21) held in Paris in 2015. Pursuant to article 2, the Agreement “*aims to strengthen the global response to the threat of climate change, in the context of sustainable development and efforts to eradicate poverty.*”

The 2030 Agenda for Sustainable Development

Adopted by the United Nations General Assembly in September 2015, it contains 17 Sustainable Development Goals applicable at a global level, materialised in 169 targets and 230 indicators. This Agenda is a plan of action for people, the planet and prosperity. It also seeks to strengthen global peace, access to justice, the eradication of poverty and hunger, fight inequalities and guarantee a continuous protection of the planet and its natural resources. With the purpose of including every individual, the Agenda adopts a human rights focus based on the Universal Declaration on Human Rights and related international treaties.

The International Bill of Human Rights

The International Bill of Human Rights included the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, as well as their Optional Protocols.

Political Coherence

Guiding Principles No. 8, 9 and 10 relate with political coherence. The three spheres highlighting this coherence are: state institutions making use of business practices, the negotiation of political agreements about business activities with other states or business enterprises, and their performance as members of multilateral institutions.

National Council for the Implementation of the 2030 Agenda for Sustainable Development²

The Council aims to *“advise the President of the Republic and serve as a coordination platform for the implementation and monitoring of the SDGs and the Agenda.”* It is composed by the Ministries of Foreign Affairs; Economy, Development and Tourism; Social Development, and the Environment.

Social Responsibility Council for Sustainable Development³

Advisory Council for the Ministry of Economy, Development and Tourism aiming to offer advice in

the preparation of public policies related with Social Responsibility for the Country's Sustainable Development. Established in 2013, its main duties are (a) To serve as a coordination platform between the different state administration bodies, the private sector, the civil society in matters related with the preparation of public policy in the area of Social Responsibility for Chile's Sustainable Development; (b) To identify and report to the Ministry of Economy, Development and Tourism about policies, best practices and initiatives in the field of Social Responsibility being generated at a national and international level; (c) To propose to the Ministry of Economy, Development and Tourism certain public policy measures and actions in the field of Social Responsibility.

Human Rights Due Diligence

Due diligence in the field of human rights is the continuous process of running a business in a sound and reasonable fashion, in the light of that business' own circumstances aimed at addressing their responsibility to respect human rights. Guiding Principles state that a process of due diligence in the field of human rights should *"include an assessment of the actual and potential impact of activities on human rights, the integration of conclusions and actions involving respect; the following up of replies and communication of the way negative consequences should be faced."*

Sustainable Development

Development that fulfils present needs without compromising the capacity of future generations to satisfy their own needs. The 2030 Agenda for Sustainable Development seeks to achieve a sustainable development in three dimensions -economic, social and environmental- in a balanced and comprehensive fashion.

Tripartite Statement issued by the International Labour Organisation

ILO instrument giving instructions to business enterprises regarding social policy and inclusive, responsible and sustainable practices at the workplace. The Statement's principles are based on labour-related international standards and are focused on multinational business enterprises,

governments and organisations of employers and workers. They cover the areas of employment, training, work and life conditions, and industrial relations, as well as general policy.

OECD Guidelines for Multinational Enterprises

These are recommendations addressed by governments to multinational enterprises operating in or from adhering countries. They provide non-binding principles and standards for responsible business conduct in a global context consistent with applicable laws and internationally recognised standards. The Guidelines are supported by an implementation mechanism, namely: the National Contact Points (NCPs), which are organisations created by the governments of adhering countries with the purpose of promoting and implementing the Guidelines.

Operational Grievance Mechanisms

This is a formal mechanism used by groups or people to submit their concerns about the negative consequences that a business may have over them, including, but not exclusively, over their human rights, for which they can claim remedial action. They have two essential roles regarding the responsibility that business enterprises have to respect human rights: to contribute in the determination of negative consequences over human rights as part of an enterprise's obligation to act with due diligence in human rights, and to allow the enterprise to respond for detected damages and repair the negative consequences directly at an early stage to avoid further damage or an escalation of claims.

Sustainable Development Goals (SDGs)

The 17 Sustainable Development Goals (SDGs) were agreed by the United Nations General Assembly as a roadmap to implement the 2030 Agenda. They revisit and amplify the Millennium Development Goals and include the three dimensions of sustainable development: economic, social and environmental. SDGs, their targets and indicators are comprehensive and indivisible in nature, with global reach and universal application.

United Nations Global Compact

The United Nations Global Compact is an international initiative promoting the implementation of ten universally accepted principles aimed at promoting social corporate responsibility in the areas of human rights, labour standards, environment and anti-corruption, in the activities and the business strategy of business enterprises. Human rights are imbedded in one of the four main working areas of the Global Compact.

United Nations Guiding Principles on Business and Human Rights

These principles were unanimously adopted in 2011 by the Human Rights Council after preparation by the United Nations Secretary General's Special Representative on Human Rights and Transnational and Other Business Enterprises, John Ruggie. The Guiding Principles are underpinned by three pillars: The State duty to protect against human rights abuses; the corporate responsibility to respect human rights, and the access to remedial mechanisms.

ILO Fundamental Principles and Rights

The Declaration of the International Labour Organisation (ILO) regarding fundamental principles and rights, issued in 1998, commits ILO Member States to respect and promote principles and rights in four categories – discrimination at work, freedom of association and the rights to collective bargaining, elimination of compulsory labour and abolition of child labour –whether or not they have ratified the relevant Conventions.

National Action Plans on Business and Human Rights

These plans are an evolving political strategy prepared by the State to challenge the negative impacts on human rights generated by business enterprises in accordance with the United Nations Guiding Principles. In 2014, the United Nations Human Rights Council urged States to prepare National Action Plans aimed at promoting the implementation of the Guiding Principles in their domestic contexts.

OECD National Contact Points (NCPs)

These bodies are created by the governments of countries adhering to the OECD Guidelines for Multilateral Enterprises with the purpose of promoting and implementing the Guidelines. NCPs assist enterprises and their stakeholders to take appropriate measures to further observance of the Guidelines, and they provide a mediation and conciliation platform for resolving practical issues related with the operation of multilateral enterprises. In Chile, the NCP is based in the General Directorate of International Economic Affairs.

Acronyms

OHCHR	Office of the United Nations High Commissioner for Human Rights
DIRECON	General Directorate of International Economic Relations
DIDEHU	Human Rights Directorate of the Ministry of Foreign Affairs
OECD	Organisation for Economic Co-operation and Development
SDG	Sustainable Development Goals
UN	United Nations
ILO	International Labour Organisation
NHRP	National Human Rights Plan
UNGP	United Nations Guiding Principles on Business and Human Rights
PAN	National Action Plan on Business and Human Rights
NCP	National Contact Point for OECD Guidelines
ProChile	Exports Promotion Directorate at DIRECON
EAS	Environmental Assessment Service
EIA	Environmental Impact Assessment System

Business and Human Rights for Sustainable Development

*We will not enjoy development without security,
we will not enjoy security without development,
and we will not enjoy either
without respect for human rights.*

Kofi Annan, former Secretary General of the United Nations

Chile has experienced a sustained economic and social development throughout the past years thanks to the existence of consistent macroeconomic policies, open trade and a climate that favours business enterprises. This development has reflected on an improvement in relative and absolute poverty indexes.

We have made progress towards an increasingly modern and competitive economy, but there are still challenges ahead that need to be faced if we want to become a more democratic and cohesive society. The Government of President Michelle Bachelet has seek economic growth in a challenging context, but has also done progress in inclusion, equal opportunities, transparency and citizens' involvement. These are the founding pillars of an inclusive, diverse and just society and country that fully respect the freedoms and rights of those who are part of them.

We know that development is not an end in itself; it is there to serve people, their lives and their dignity. We must, as a society, continue building the frameworks and conditions for development to be a strong advocate of the respect for human rights of all those who live in this country. In this context, one of the essential stakeholders are business enterprises, because they boost the economy and cooperate in the full realisation of human rights.

The State has also led several initiatives to advance progressively towards the society we aspire to create. The Social Responsibility Council for Sustainable Development; the creation of the Under-Secretariat of Human Rights -with the mandate to prepare a National Plan on Human Rights; the Agenda for Productivity, Innovation and Growth, and the series of reforms led by this Government, consolidate this vision. The following National Action Plan on Business and Human Rights is in line with those efforts.

In this same line, the Social Responsibility Council for Sustainable Development, composed of representatives from the public and private sectors, entrusted the Ministry of Foreign Affairs to coordinate the preparation of this public policy, which was drafted following the United Nations Guiding Principles on Business and Human Rights and the 2030 Agenda for Sustainable Development.

Regarding the former, the impact of business activities on the respect of human rights was discussed during decades in international fora, arriving in 2011 at the unanimous adoption, by the United Nations Human Rights Council, of the **Guiding Principles on Business and Human Rights**. These Principles set out world standards for business enterprises to be a force for good in sustainable development, and does not undermine the rights of people and communities.

Additionally, adopted in 2015, **the 2030 Agenda for Sustainable Development** sets out a global path regarding development, urgent countries to deepen their efforts to put an end to poverty, reduce inequalities and fight against climate change, without leaving anyone out. The agenda acknowledges the role that business enterprises have and stresses the need for joint public-private work to achieve such objectives.

This Action Plan is a first effort to imbed the Principles within the national reality, in line with the international commitment made by Chile regarding this matter. It aims at throwing a light upon

what is understood by human rights in a business environment and is also a platform to identify, prevent, address, mitigate and redress pair the adverse impact that business enterprises may cause during their activities.

Furthermore, who hope it becomes a tool to promote knowledge and foster new opportunities to gather among stakeholders by facilitating the road to encourage a culture of respect for human rights in the business industry.

The above is consistent with the need to promote in our country a robust and competitive business environment, which is ready to face global challenges. President Bachelet expressed this will during her visit to Sweden in 2016 when she highlighted the execution of the United Nations Guiding Principles on Business and Human Rights, through this first National Action Plan.

The implementation of the Business and Human Rights agenda is an opportunity opening the contribution by all stakeholder involved. Guiding Principles highlight especially the role of the State and the business industry, which are bound to prevent the occurrence of potential impacts at different levels through the adoption of proper mechanisms.

Chile has made the commitment to implement the international laws on human rights at all levels, including business enterprises, to contribute to sustainable development with a modern and competitive economy and a more just and equitable society.

The Ministry of Foreign Affairs will continue to promote the respect for and promotion of human rights, one of the main strands of our foreign policy, and in the national application of these standards.

This National Action Plan on Business and Human Rights seeks to be a contribution in this sustainable development path.

Heraldo Muñoz Valenzuela

Minister of Foreign Affairs

I. Value of the United Nations Guiding Principles on Business and Human Rights

In 2011, the United Nations Human Rights Council adopted the Guiding Principles on Business and Human Rights⁴, whereby they became the global authority framework in this matter. Underpinned by three pillars, the Guiding Principles reaffirm: (i) the State duty to protect against human rights abuse, including by business enterprises; (ii) the corporate responsibility to protect human rights through due diligence, and (iii) the access to proper remedy for victims affected by the adverse impact of corporate activity.

The Guiding Principles have consolidated, in the international arena, as a legitimate reference tool due to the high and diverse number of stakeholders involved in their preparation process and for the consensual approval received at the United Nations. Addressed both at the States and business enterprises, these principles reaffirm the existence of differentiated, but at the same time, supplementary responsibilities for States and business enterprises because, while the State must promote, protect and respect human rights, business enterprises, as all other member of society, have the duty to respect them. Therefore, the State must make regulatory and political efforts to promote due compliance, while business enterprises, in an independent fashion, even when their might be protection voids, are responsible for respecting human rights.

The Principles are the result of a long negotiation work supported by Chile through the resolutions adopting them, as the country recognises them as a fundamental tool to achieve sustainable development. This commitment has also been expressed at a regional level, a scenario where Chile has submitted two related resolutions at the General Assembly of the Organisation of American States⁵.

To put the corporate responsibility of respecting human rights into practice, business enterprises are advised to establish an explicit commitment in this regard and materialise such

commitment through a process of due diligence allowing them to identify the potential risks of and actual impact on human rights.

A fundamental aspect included in this tool is the access to remedy, which is a human right in itself. Pillar 3 of the Guiding Principles focuses on this factor by highlighting not only its importance but also on the variety of mechanisms that must be available to those who feel that their rights have been affected.

Guiding Principles are based on human rights international rights which include, as least, the International Bill of Human Rights⁶ and the principles related with fundamental rights established in ILO Declaration regarding the fundamental principles and rights in the workplace⁷. Thus, the Guiding Principles are not new obligations, but constitute a more precise definition of the existing regulations which clarify the responsibility that States and business enterprises have within this context.

Regarding the effective implementation of the Guiding Principles, the Human Rights Council passed in 2014 a resolution⁸ related with this matter urging States to adopt National Action Plans on Business and Human Rights. At a regional level, OAS General Assemble passed, first in 2014⁹ and then in 2016¹⁰, two resolutions urging States in the Americas to promote the application of the Guiding Principles through the design and implementation of National Action Plans.

In the case of human rights and business enterprises, an Action Plan is defined as *“an evolving policy strategy developed by a State to protect against adverse human rights impacts by business enterprises in conformity with the UN Guiding Principles on Business and Human Rights”*¹¹.

This Action Plan was coordinated and prepared by the State, but it seeks to become a platform for action in human rights and business-related matters; therefore, it implies the creation of links with and commitment by other stakeholders involved, such as business enterprises, the civil society and international institutions. This project seeks to link and connect diverse initiatives allowing to implement the country’s agenda on human rights and business enterprises, thus inviting the different stakeholders to join in.

It is worth mentioning that the Guiding Principles have had an important reach since their adoption; they have been included in a series of regulations and initiatives aimed at promoting a responsible corporate behaviour, including, for example, the Global Compact, OECD Guidelines for

Multinational Enterprises, ILO Tripartite Statement, ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, UNICEF Children’s Rights and Business Principles, Save the Children and Global Compact, among others.¹² They have also being included in new regulations such as the “Modern Slavery Act” or the law against modern slavery in the United Kingdom; Europe’s Guidelines concerning Transparency, and the newly passed French act about due diligence in human rights¹³, and, in practice, by many enterprises.

Responding to national and international calls, and convinced by the usefulness of these Plans as a cross-cutting tool, Chile decided to prepare its first National Action Plan on Business and Human Rights, thus highlighting its connection with other global frameworks such as the 2030 Agenda for Sustainable Development and the Climate Change Agenda, as well as with other international instruments concerning human rights.

II. Contribution of Business Enterprises to Sustainable Development

After the adoption of the Guiding Principles, the United Nations adopted in 2015 the 2030 Agenda for Sustainable Development, followed by the historic Paris Agreement on Climate Change with the purpose of achieving a “transformative change” for people, the planet, peace and prosperity. States are not solely responsible for achieving these ambitious objectives, but the different actors in society as well, where business enterprises play a key role. This implies an effort from the business industry as it must work as a catalyser and an agent for change in the transition towards a world where development is inclusive and sustainable.

The 2030 Agenda acknowledges this reality and creates a comprehensive view of these global phenomena. The Agenda sets out 17 Sustainable Development Goals containing global targets and indicators, as well as follow up, revision and implementation mechanisms. Among other things, the Agenda acknowledges that the eradication of poverty is an essential requirement for sustainable development -which includes, but is not limited to, economic, social and environmental aspects.

The 2030 Agenda highlights the implementation role to be played by diverse stakeholders in the private sector and urges business enterprises to act in accordance with the Guiding Principles, which implies to prevent and mitigate the adverse

effects on human rights. SDGs are underpinned by human rights, which are cross-cutting regarding these objectives: 156 of the 169 targets included in the 17 Objectives (over 92%) are linked to



provisions established in human rights international instruments. By linking to the SDGs, business enterprises must address the actual and potential impact on human rights, and the Guiding Principles are the tools they can use for this end. Business enterprises may also play other roles in the Agenda's implementation in terms of the supply of basic services, the involvement in public-private partnerships and the provision of finance, activities through which they must also respect human rights. Lastly, the 2030 Agenda also encourages business enterprises to adopt specific measures for fulfilling the SDGs such as, for example, target 12.6 encouraging enterprises to adopt sustainable practices and include sustainability information in their cycles of report submission¹⁴.

With the purpose of providing a way to implement and follow up the Agenda in the next 15 years, Chile has established the National Council for the Implementation of the 2030 Agenda for Sustainable Development¹⁵. The Council was created with the purpose of advising the President of the Republic and serve as a coordination body for the implementation and follow up of the SDGs and the Agenda.

On the other hand, climate change is another major global challenge having a direct impact on the enjoyment of human rights.

Sustainable Development Goals acknowledge the cross-cutting impact of the 17 SDGs; 12 of them relate directly with action in the climate change sphere, while objective 13 is specifically focused on this phenomenon.

The Paris Agreement, passed in December 2015 at the 21st Conference on Climate Change (COP21), held in Paris, by the 196 Parties to the United Nations Framework Convention on Climate Change, provides a roadmap for measures related with climate aimed at reducing emission and developing resilience regarding climate change. The text of the agreement acknowledges that States must consider their obligations regarding human rights at the time of taking steps to address climate change. In turn, the United Nations has stated that States are bound to protect human rights in the context of climate change, including damage caused by it.

In this global context, business enterprises are urged to transit towards sustainability by reaching a balance between economic, social and environmental factors, and implementing mechanisms allowing to know and letting know that they respect human rights and contribute to

their realisation.

There is no doubt that adopting the human rights framework is a challenge for business enterprises. Nevertheless, this also presents an opportunity and a comparative advantage for the organisation's sustainability. It is a proven fact that business enterprises including these mechanisms find themselves in a better position to face the risks of an activity requiring their interaction with many stakeholders in time. Today, the potential negative impact on human rights has become a main risk indicator for business enterprises, be them operational, financial, reputational, legal, or connected with the employment and retention of staff. Including mechanisms preventing and avoiding these impacts entails direct economic benefits for business enterprises.

III. First National Action Plan on Business and Human Rights in Chile

Normative Framework

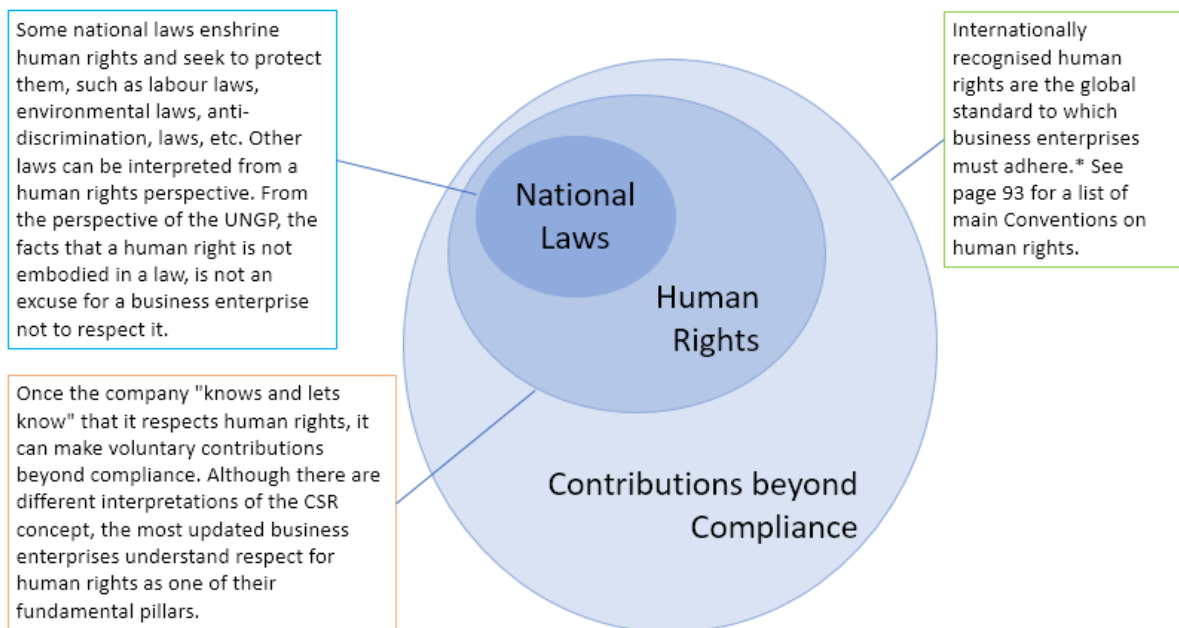
Business enterprises are basic economic units in society which, through their activity, may generate a series of positive impacts on society such as the creation of employment and payment of taxes which, in turn, allows the State to invest public money in the realisation of human rights. Nevertheless, through their operation, they may also generate negative impacts on human rights, which can be prevented through the implementation of proper mechanisms.

The Plan's main objective is to embed in Chile a culture of respect for human rights in corporate activity aimed at preventing negative impacts and, if possible, going beyond respect, strengthening positive contributions that business enterprises may offer to society and their environment. According to the Universal Declaration of Human Rights, each member of society, including business enterprises, has the duty to respect human rights.

This Action Plan seeks to advance the implementation in Chile of the United Nations Guiding Principles about Business and Human Rights; therefore, these principles and the language used offer the reference framework for their preparation. Internationally agreed, this language mentions on several occasions the risks entailed by actual and potential impacts of corporate activity over human rights. This does not mean that all business enterprises generate permanently an impact on their environment, but it looks at emphasizing the importance of identifying potential risks at an early stage so that they can be addressed. The Action Plan is a political strategy coordinated by different institutions with the purpose of joining initiatives that allow integrating these standards in the country.

The Action Plan is based on commitments made by different State institutions, which acts according to its duties regarding the protection of human rights. Third parties were invited, including business enterprises, during the process of drafting the Plan. Several social stakeholders are also expected to participate in the preparation, monitoring and follow up of the same.

The framework offered by the Guiding Principles is based on the following: business enterprises must respect the domestic law including internationally acknowledged human rights, whether they are recognised by domestic laws or not. Therefore, human rights are the standards used by business enterprises to carry out their activities. To comply with the duty of respect, the Guiding Principles propose that business enterprises use due diligence mechanisms connected to human rights. Although this mechanism is not binding on business enterprises, respecting human rights is not voluntary for them. Within this framework, all other actions carried out by business enterprises to contribute to communities or development are welcome, but they are secondary to their duty to respect human rights.



Process to draft the National Action Plan

The National Action Plan for Business and Human Rights seeks to implement in Chile the United Nations Guiding Principles in this area, a tool which does not create new obligations of the

international law nor does it restrict the State's existing obligations. Instead, it acknowledges the role of international law regarding the protection of human rights and makes visible the role of business enterprises in this field.

The mandate to prepare the first National Action Plan for Business and Human Rights in Chile was the result of an agreement reached by the Social Responsibility Council for Sustainable Development and its coordination is based at the Ministry of Foreign Affairs¹⁶, which created a specialised Unit on this subject to carry out this task¹⁷.

The process to prepare this Plan started formally in April 2015 with a national seminar attended by authorities and several stakeholders¹⁸. From that time onwards, activities and steps were developed not only to design collectively this public policy but also to ensure the implementation of this Agenda in the long term in Chile.

After this process was launched, an Inter-Ministerial Working Group was created with the purpose to develop the National Action Plan. This group gathered periodically, proposed courses of action and participated in the activities carried out in this context¹⁹.

One of the starting points in the development of this Plan was the baseline study about business and human rights prepared by an external independent expert²⁰. The study included an assessment of the country's current situation of business and human rights, and covered the areas of State responsibilities by using the Guiding Principles as a reference framework. It was introduced at the second national seminar on business and human rights organised by the Ministry of Foreign Affairs and the National Human Rights Institute in May 2016.

Another useful tool was the Country Guide on Business and Human Rights, a platform helping business enterprises and other actors to identify and address their impact on human rights²¹.

Understanding that one fundamental aspect in this process is the active involvement of different stakeholders, nine participative dialogues were organised in July 2016 in Antofagasta, San Pedro de Atacama, Santiago and Temuco, including business enterprises and unions, the civil society and indigenous peoples. With the participation of over 360 people, workshops were led by international consultancy experts²². The main objective of these gatherings was to collect opinions, feedback and recommendations that could be included in the first National Plan. Recommendations

provided in these meetings were considered to draft the measures proposed in this Plan, and the document is structured according to the thematic strands originated from the same.

With the purpose that involvement in these activities was decided on an informed basis, a Guide for Citizens Participation in the National Actions Plan was prepared in 2015²³. In the same line and looking to promote this matter, a webpage was launched about the Action Plan (www.derechoshumanosyempresas.gob.cl).

With all the information gathered along the process, which was carried out in different stages and involved different stakeholders, the Inter-Ministerial Working Group prepared internally the proposals to design this public policy. The Actions Plan and the measures composing it are the result of this process.

The United Nations invites States not only to design and implement the National Actions Plans on Business and Human Rights, but also to update them. Thus, this document is a first joint effort to address this subject in a coordinated fashion in Chile.

In this regard, the Plan must be understood as a live document and as an integral part of an evolving process stating the need to renew itself and adapt to the permanent challenge raised by this Agenda at a national level. Further efforts should be carried out by building on that process and lessons learnt from it.

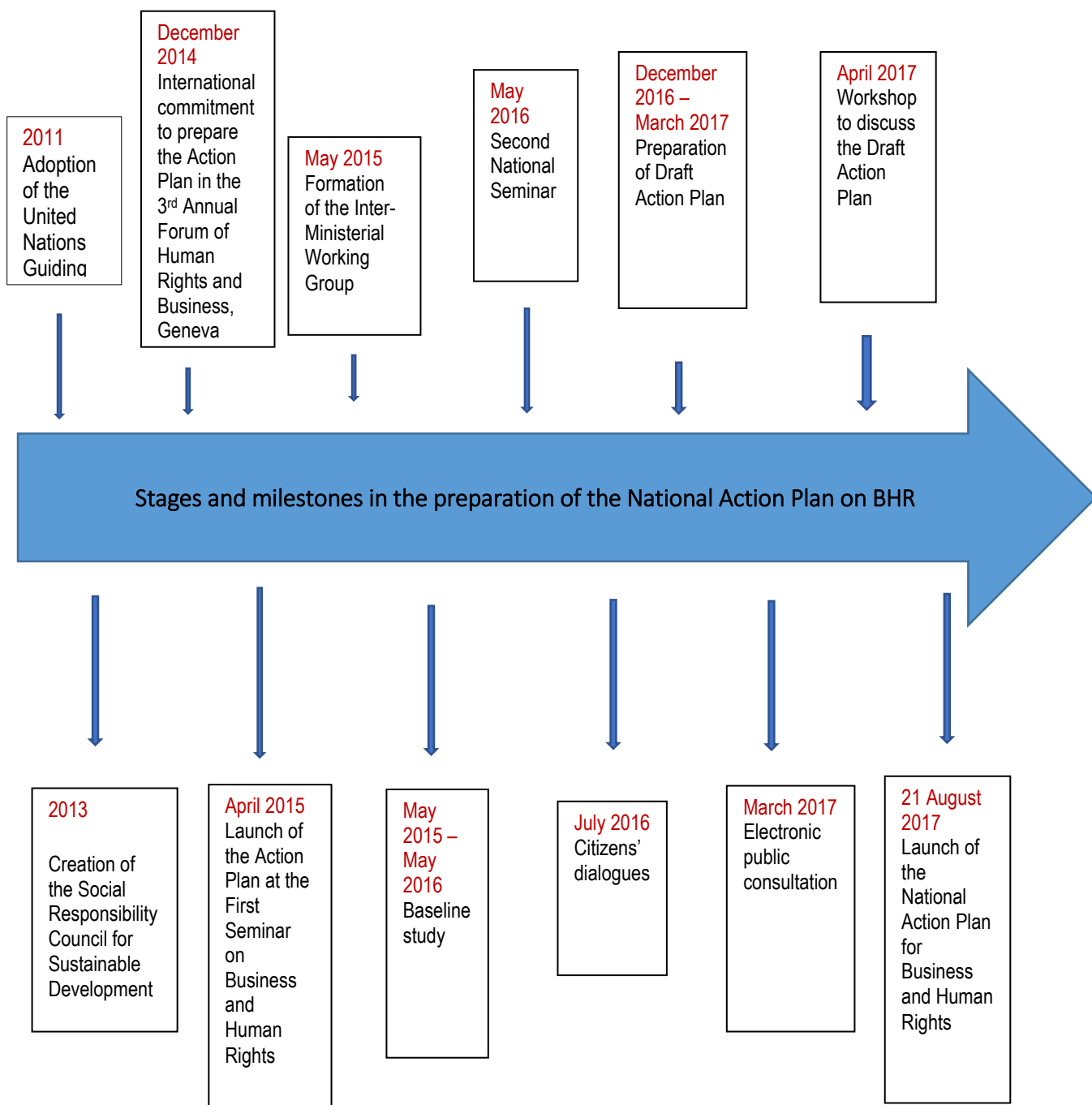
The nexus between human rights and business is cross-cutting to the State duty and, for this reason, invites all public bodies to participate in the process. This Plan was prepared by the Inter-Ministerial Working Group based on the commitments made by the Ministries composing the same and by other institutions that joined the challenge. The reason for this is that, this subject being a subject attracting the interest of society as a whole, efforts have been made to invite diverse organisations and stakeholders in this first stage, which are expected to grow in a future process.

It is important to highlight that, in a parallel but coordinated effort related with this Action Plan, the Under-Secretariat of Human Rights, of the Ministry of Justice and Human Rights, is preparing a National Plan on Human Rights (NPHR)²⁴. Lasting four years, the NPHR will be approved by the President of the Republic and shall contain the design of policies, plans and programmes ensuring the respect, promotion and protection of human rights, concentrating the actions whereby

the State must advance compliance with the commitments made by Chile to international bodies, and the recommendations made by the National Human Rights Institute.

The NPHR will include references to other national plans and their contents, if they relate with human rights and the different actions aimed at their promotion and protection. Lastly, the NPHR will include a follow up and assessment system to verify compliance of its contents. In the preparation of this Action Plan, the Under-Secretariat of Human Rights will include a set of actions committed in the Action Plan on Business and Human Rights converging and supplementing their objectives and targets.

Timeline of Process - Milestones



Objectives of the National Action Plan

The general objective of this National Action Plan on Business and Human Rights is to strengthen the protection of human rights by the State of Chile regarding the behaviour of business enterprises, as this is understood as a fundamental pillar of sustainable development.

The following specific objectives have been identified to achieve the general objective:

- To support the strengthening of coherence in public policy in the field of business and human rights.
- To generate instances to carry out a national discussion allowing to foster the respect for human rights in a corporate environment.
- To prevent potential negative impacts on human rights that may be generated in the context of corporate activities.
- To promote due diligence in human rights within a responsible corporate management.
- To strengthen remedial mechanisms for those affected, aiming at the pacific resolution of controversies.
- To contribute to the fulfilment of the 2030 Agenda for Sustainable Development.

A series of actions will be implemented to achieve these objectives, which have been organised according to the three pillars included in the Guiding Principles and have also built on the recommendations gathered at the citizens' dialogues held for this Plan.

Actions of the National Action Plan on Business and Human Rights

This section presents the actions proposed by different institutions involved in preparing the Plan. Measures adopted are organised according to the three pillars contained in the Guiding Principles and thematic strands related with the subjects mentioned during the process of preparation for drafting the Plan.

As observed in the reports prepared in the field of business enterprises and human rights by

different national and international institutions²⁵, business enterprises may cause a series of adverse impacts, which could include the following: impacts on especially vulnerable social groups in terms of discrimination and lack of opportunities in the labour market, impacts on groups of society that could be facing particular risks regarding business enterprises or that may find themselves excluded from the benefits generated by corporate activities, child labour (interfering with the health, development, education or family life of people under 18 years of age), forced labour (slavery resulting from debts, human trafficking or any other coercive means depriving employees to freely leave the workplace), unsafe or unhealthy conditions at work exposing workers to risks such as accidents and work-related accidents, restrictions on the workers' right to represent their interests collectively. Aspects out of the corporate's scope may also be included -such as impacts on the environment that may cause health problems or affect the lifestyle of local communities, impacts on human rights related with the acquisition, use and management of land by business enterprises, impacts on human rights related with the transparency in the management of income received by corporate activities, and with the distribution of such income, impacts on human rights related with the interaction of business enterprises with the providers of public and private security, and also regarding the corporate impacts on conflicts existing within the society.²⁶

Regarding the situation in Chile, there are national, international and global mechanisms that execute, supervise and evaluate the country's compliance with human rights. Some of these documents²⁷ provide recommendations in the field of human rights and business at a local level. Such is the case of reports concerning the United Nations mechanisms to protect human rights; reports prepared by the INDH about monitoring missions; annual reports prepared by the INDH; a map showing environmental conflicts prepared by the INDH. Other documents containing related matters at a local level are the Baseline of Business and Human Rights; the Country Guide of Business and Human Rights and the reports of dialogues held in the context of the Action Plan.

Aimed at addressing the priority subjects gathered from the dialogues and other feedback received along the process, a series of cross-cutting strands were identified to drive the efforts made by the State and business enterprises to protect and respect human rights in Chile.

Consequently, actions contained in this Action Plan are organised based on the three pillars of

the Guiding Principles, and consider the strands identified during the process.

Pillar 1: The State Duty to Protect Human Rights

The State is the main actor responsible to ensure the protection against human right abuses within their territory and jurisdiction. In this sense, Pillar 1 of the Guiding Principles makes this duty explicit and describes how, from its basic powers, the State must create a proper context for the other actors, including business enterprises, to respect human rights.

In accordance with the above, the Guiding Principles emphasise four specific areas: (i) the role of the State in the field of regulations, public policies, promotion and incentives; (ii) the State-business enterprise link, i.e. the cases when the State performs a corporate role; (iii) the zones affected by conflict, and (iv) political coherence, meaning the State's duty to protect human rights in all areas related with corporate and economic activity.

To comply with the priority duty to protect human rights, the State must create the proper policies, regulations and incentives to prevent companies from generating adverse impacts on these rights.

There are many situations where the State acts as a business enterprise or directly support this type of organisations, for example in the case of public business enterprises, public purchases, the promotion of investment, innovation and exports, or the privatisation of utilities. According to the Guiding Principles, in these cases States must take additional steps to protect against adverse impacts caused by business enterprises they own or who are under their control, or who receive important support and services from state bodies, in which case they must request that due diligence processes are in place regarding human rights.²⁸ Several actions seek to help the State to respect human rights when it acts as an economic actor and to promote the progressive introduction of due diligence in human rights of State-related business enterprises.

The Guiding Principles state that, in conflict-affected areas, risks of human rights abuses are much higher. The State must provide the business enterprises with the necessary tools and guide them so that they can manage these situations properly, thus avoiding adverse impacts on human

rights within this context. Conflict-related situations may take place inside and outside the State. In this regard, it is important for the Chilean State to support national businesses with operations outside the country, so that they avoid creating negative impacts on human rights. This, because in today's globalised context, business enterprises are also an integral part of Chile's image abroad.

The State of Chile has international obligations in the field of human rights, which have been committed through the ratification of diverse instruments such as, *inter alia*, International Conventions on Human Rights, Regional Conventions on Human Rights, and ILO's Conventions on Labour Rights. Also, the State adopts national and international regulations and policies introducing corporate practices, which must balance diverse interests and get the business community to respect the human rights obligations binding the country. Guiding Principles state that there must be a vertical political coherence, from Ministries to Municipalities, and horizontal between Ministries, as well as an international political coherence among countries in contexts involving investment and trade agreements, and at multilateral fora²⁹.

The importance of Pillar 1 of the Guiding Principles as a cross-cutting instrument for States to protect against human rights abuses in corporate-related contexts is the baseline for complying with commitments made in the field of sustainable development.

It is worth mentioning that, in paragraph 67, the 2030 Agenda sets out that "*private business activity, investment and innovation are major drivers of productivity, inclusive economic growth and job creation*", and urges States to encourage business enterprises to act in accordance with the United Nations Guiding Principles on Business and Human Rights³⁰. Therefore, the preparation and implementation of this Plan to apply the Guiding Principles is a reflection of the effort made by the State to achieve this end, and is a relevant and measurable indicator under target 12.1 of the SDGs, concerning national programmes seeking to promote sustainable consumption and production.

Pillar 1 of the Guiding Principles: The Duty of the State to Protect

1. Regulations, Public Policies, Promotion: Guiding Principles Nos. 1, 2 and 3.
2. State-Business Nexus: Guiding Principles Nos. 4, 5 and 6.
3. Areas affected by conflict: Guiding Principle No. 7.
4. Political Coherence: Guiding Principles Nos. 8, 9 and 10.

Strand 1: Training in the Field of Business and Human Rights

The need to provide training in business and human rights was stated repeatedly during the different stages of the process. Both during the study of the baseline and at the seminars, dialogues and other opportunities to get involved in the process, the importance of raising understanding around business and human rights was stressed. Therefore, the following measures were committed:

- 1.1 The Ministry of Foreign Affairs will:
- Create alliances with different institutions to train interested actors. Material developed in this process will serve as a basis for other training actions included in this Plan.
 - Work to build capabilities in the staff working at the Ministry of Foreign Affairs, through the development of an e-learning course on business and human rights.
 - Strengthen the diplomats' capabilities in the field of business and human rights, with the purpose that they have the right tools to support Chilean businesses abroad - through the development of an annual Module on Business and Human Rights taught at the Diplomatic Academy. It will promote, among the Chilean embassies posted abroad, tools allowing to guide Chilean businesses operating in those countries about risks in the fields of business and human rights.
 - Develop projects of cooperation and exchange of experiences about business and human rights with Chilean embassies posted in countries showing more progress in this field, through its Programme of Activities Abroad (PAAE).³¹
 - The General Directorate of International Economic Relations (DIRECON), will carry out internal actions to promote knowledge around business and human rights with the purpose that staff working in this Directorate take these criteria into account when developing their activities.

- DIRECON will periodically report to the Trade Offices and Regional Offices of the Exports Promotion Directorate (ProChile) about business and human rights.
- DIRECON will raise awareness and further knowledge concerning other relevant international instruments and their link with the United National Guiding Principles on Business and Human Rights, such as the Tripartite Statement of Principles on Multinational Business Enterprises and ILO's Social Policy, and ISO 26,000. The above will be carried out through presentations, seminars, dialogues, briefings and publications in the website, as relevant.

1.2 The Under-Secretariat of Human Rights of the Ministry of Justice and Human Rights will:

- In the context of its mandate to design, foster and coordinate education and training actions concerning human rights for staff working for State bodies, promote the introduction of contents covering business enterprises and human rights in trainings and courses that come to its attention in its articulating role.
- Promote the introduction of contents covering business enterprises and human rights in training sessions for people joining State work through the Senior Public Management System led by the Civil Service.
- Promote the introduction of contents about business enterprises and human rights in training sessions held by the Armed Forces and the Order and Security Forces, when relevant, according to the trainees' profiles.
- Introduce subjects concerning business enterprises and human rights in a future Handbook about the focus on human rights of public policies.³²

1.3 The Ministry of Labour will:

- Train workers about their rights and the Guiding Principles through the introduction of subjects related with business enterprises and human rights in the programmes of study of the Union School, with emphasis, *inter alia*, on labour rights and child labour.
- Train businesses (guilds, confederations, associations and SMEs), unions and civil

servants in the field of business and human rights, emphasising labour rights.

- Inform users about this Action Plan through a banner uploaded in the ministry's website portal -aimed at providing additional information in this area, and showing the measures that the ministry is carrying out in the relevant field.

1.4 The Ministry of Energy will:

- Through the Division of Social Involvement and Dialogue, within the implementation framework of the Indigenous Chapter of the 2050 Energy Policy³³, perform the following actions:
 - Develop training sessions in renewable energy for indigenous leaders with focus on business and human rights.
 - Perform activities to transfer experiences and knowledge to companies, so that they have information available for the development of energy projects in indigenous contexts.
 - Develop actions to train business enterprises about human rights and corporate activity, focusing on indigenous rights and cosmovision.
 - Train indigenous peoples about business and human rights. This initiative will be performed in conjunction with the Indigenous Affairs Unit of the Ministry of Social Development, which will facilitate coordination between initiatives carried out by both institutions within the context of the Action Plan.

1.5 The Ministry of Social Development will:

- Through the Indigenous Affairs Coordination Unit, carry out a Training Plan including indigenous peoples related subjects for businesses operating in the North and South macro-zones, including the focus introduced by United Nations Guiding Principles on Business and Human Rights. Contents of these training sessions will include relevant international standards, which will be discussed with indigenous representatives and have the involvement of business enterprises. Through the Indigenous Affairs Coordination Unit, it will publish a Participatory Guide concerning Indigenous Rights and

Cosmovision of Indigenous Peoples, allowing to advise and train business enterprises about these peoples and the respect for their rights.

- Train staff on the Guiding Principles, including professionals from the Division of Social Policies and the Division of Social Assessment and Investment.
- Through the Division of Public-Private Cooperation, include the focus on business, human rights and sustainable development in training activities about Public Incentives to Benefit Social Development by means of:
 - Workshop-seminars about Public Incentives to Benefit Social Development for Business Enterprises and public-private cooperation in accordance with the Guiding Principles and the 2030 Agenda, thus strengthening the State-Business nexus and promoting due diligence in human rights.
 - Introduction of a module about the “Guiding Principles on Business and Human Rights and their connection with the 2030 Agenda for Sustainable Development” in a workshop-seminar organised by business senior and executive staff.
- Through the National Disability Service, will:
 - Train public and private business enterprises to include inclusive for disabled people in inductions and training programmes.
 - Organise seminars to public services and bodies, business enterprises and the civil society to address subject concerning disability. Also, a course about Human Rights and Disability will be given at universities, and outreach actions will be carried out involving public services and bodies, business enterprises and the civil society.

1.6 The Ministry for the Environment will:

- With the support of expert organisations, coordinate internal training at a national and international level, and at a macro-zone level in the Ministry of the Environment, the Superintendence of the Environment (SMA) and the Environmental Assessment Service (EAS).

- In coordination with the Environmental Assessment Service, expand the training carried out in technical-environmental matters to representatives of the civil society and indigenous peoples to facilitate their involvement and the exercise of their rights during the process of citizens' involvement.
- Upon creation of the Biodiversity and Protected Areas Service and of the Protected Areas National Service, carry out an outreach and training process including an analysis about their relationship with business and human rights.

1.7 The National Human Rights Institute will:

- Train staff working in regions about business, human rights and sustainable development, in line with the 2030 Agenda.
- Update the booklet of emerging issues and the business and human rights card.
- Introduce the Guiding Principles on Business and Human Rights in the recommendations they submit to the State about cases documented by this institution. These recommendations, and those coming from the international human rights system will be considered in training sessions given to public officers about companies and human rights.

1.8 The Ministry of Mining will organise talks and/or seminars about the introduction of human rights standards in the development of mining projects.

Strand 2: Dialogue

During the workshops organised within the framework of the process to draft this Plan, diverse actors highlighted the need to generate more spaces for multi-actor dialogue allowing to discuss the issues faced by them in the context of corporate operations. It is worth mentioning in this regard that, within the framework of business and human rights, the generation of spaces for further dialogue may also become a way to achieve remedial actions should any controversy arise between businesses and communities.

It is worth noting in this regard the support given by the Social Responsibility Council for

Sustainable Development as an opportunity for permanent dialogue in matter of business and human rights, sustainable development and social responsibility.

- 2.1 Through the Indigenous Affairs Coordination Unit of the Ministry of Social Development, opportunities for involvement and dialogue will be generated at a local level between business enterprises and indigenous peoples aimed at preparing a territorial development plan seeking to generate a dialogue at a local level involving municipalities, thus carrying out a participation exercise about what happens in a territory and how this is planned. This would consider the participation and planning demands regarding territorial matters of indigenous peoples submitted within the context of the Participatory Dialogues of this Plan, as well as what is set out in Convention 169, the national regulations connected with such Convention, and the national instruments of territorial planning.
- 2.2 The National Institute for Human Rights will coordinate dialogues about business and human rights at a regional level through local workshops disseminating the Action Plan, addressing important business and human rights issues at a local level, and collecting recommendations to be applied locally.
- 2.3 The Environmental Assessment Service will design the mechanism to assess the impact of the best practice Guide on the relationships among actors involved in projects submitted to the Environmental Impact Assessment System.
- 2.4 The Ministry of Energy, through the Division of Participation and Dialogue, will promote the creation of formal and steady opportunities for dialogue between businesses and communities in localities where they expect to install energy projects. Aimed at a smooth management of these opportunities, the “*Guide for Participation Standards in the Development of Energy Projects*” will be available to promote the existence, from the public sector, of mechanisms allowing to decrease the asymmetries existing between the parties, such a registry of advisors and facilitators to be used by communities; a symmetry

fund allowing to finance the advisors and facilitators; complaints mechanisms allowing to forward complaints to the authorities that the parties may have regarding compliance with agreements; dispute resolution mechanisms allowing to resolve through alternative methods any disagreements that may arise in the dialogue process. Efficiency criteria set out in Guiding Principle No. 31 will be included in the design of the complaint mechanism.

Additionally, the Ministry will promote the development of “local governance mechanisms” in the localities where energy projects are installed. They will be composed of representatives from the community, business enterprises, local authorities and other actors that the parties may consider relevant, with the purpose of carrying out dialogue processes aimed at decision making connected with local development initiatives that may be developed from the presence of an energy project within the territory.

Strand 3: Inclusion and Non-Discrimination

The Country Guide on Business and Human Rights identifies groups at risk of suffering different infringements of their rights about corporate operations such as women, indigenous peoples, migrants, LGBTI individuals and people suffering from disabilities. Potential negative impacts on these groups may take place both inside the business enterprise (hiring, firing or discrimination) and outside the business for situations derived from corporate activity.

3.1 The Ministry of Labour will:

- Perform a series of actions aimed at the protection and defence of human and labour rights of migrants through:
 - The identification of migrants that may benefit from State programmes on labour matters.
 - Training and awareness actions regarding the rights of migrants in the labour market for civil servants, unions and migrant associations.

- Seek to increase the incorporation and participation of women in the labour market through programmes benefiting this group such as: Bonus to Reward the Work of Women; Programme to Develop Labour Competences for Women, *Chile Solidario*.
- Promote and ensure the participation of women workers in unions.
- Foster parental responsibility through the development of Special Covenants where unions may agree with the employer upon certain covenants aimed at offering workers with parental responsibilities the chance to access to labour schemes combining time at the workplace with time out of the workplace, as set out by article 376 of Law No. 20,940.

3.2 The Ministry of Social Development will:

- Create a board, integrated by representatives of the public and private sector, civil society organizations and academia, to address the work and family conciliation and its impact in children and their carers. The aim is to raise awareness on the impacts of the work and family conciliation in the development of children and adolescents and disseminate best practices on this issue, on the private and public sector.
- Constitute a local board of employability, as a space of local and community network. The board is integrated by the Ministry of Social Development, the Chilean Chamber of Construction, the Labor Union and representatives of the local Government and employers of the area that it will executed³⁴.
- Organise, through the Indigenous Affairs Coordination Unit, a Coordination Board including the participation of indigenous peoples and relevant organisations with the purpose of proposing non-discrimination and inclusion measures in the labour market. This Board will take into consideration the international standards set out in Covenant 169, as well as the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and the recommendations gathered from the citizens' dialogues held within the framework of the National Action Plan about the subject.

- Prepare, through the Division of Social Policy of the Under-Secretariat of Social Evaluation, a statistical report about the socio-economic situation of risk groups including migrants, youngsters, disabled people, women and indigenous peoples, based on the Socio-Economic Qualification (SEQ) including income generated by work, capital and pensions, contained in the Household Social Register, divided by territory (regional division). This has the purpose of having available information regarding vulnerable groups within certain territory.
- Promote, through the National Disability Service, the labour insertion of people with disabilities by taking the following specific steps:
 - The Programme *+Capaz en Línea Especializada para Personas con Discapacidad*, will be executed and adapted in conjunction with the National Training and Employment Service (Sence).
 - An initiative to strengthen the work of Municipal Offices for Labour Intermediation (OMIL) will be carried out to attend people with disabilities - through a Local Development Strategy.
 - Create an Inter-Sectoral Board aimed at urging mass media, including digital media, to be accessible to people with disabilities (by using sign language, captions, making reading easier, access to information or images for people with sight disabilities.)

3.3 The Ministry of Mining will generate the conditions for transiting to an inclusive organisational structure that includes the acknowledgement of respect and diversity in their practices. They will do this carrying out the following actions:

- Talks about business and human rights addressed at key actors in the small, medium and large-scale mining industry.
- Through the participation in Regional Boards and in the National Board for Women and Mining, the development of an action plan will be supported to raise awareness and motivate the different public and private actors involved in the mining industry in subjects such as gender equality. Likewise, the implementation of conditions for women

to stay and develop a career in the mining industry and get equal pay will be fostered, as well as the creation of good labour practices and the balance between work, family and personal life.

3.4 The Ministry of Economy, Development and Tourism, through the Division of Associativity and Social Economy will:

- Create incubators of inclusive cooperatives in conjunction with SENADIS, the Ministry for Women and Gender Equality and local governments, in five districts -through training sessions in four different regions about the programme of female leadership in cooperatives.
- Encourage the organisation of training and support for the effective exercise of gender parity at democratic representation bodies within cooperatives.

3.5 The General Directorate of International Economic Relations of the Ministry of Foreign Affairs will carry out activities concerning best practices for SMEs, with the purpose of making progress in the application of best practices in the areas of inclusion, leadership and family balance.

3.6 The Ministry for Women and Gender Equality will:

- Carry out activities in conjunction with the Danish Embassy to encourage the respect of human rights in women regarding corporate activity. The activities will be performed within the framework of the Memorandum of Understanding about “Gender Equality and Sustainability, including Business and Human Rights.”
- Organise training sessions for union leaders of State business enterprises about the union’s challenges regarding gender-focused demands.
- Organise training sessions for human resource staff working in State business enterprises and other businesses about the balance between work and family life.
- Disseminate Chilean Regulation No. 3262 to civil servants and business enterprises.
- Encourage gender equality in business enterprises through the *Iguala Seal*.

- Train civil servants about the balance between work and family life.

3.7 The Ministry of Energy will promote the respect of human rights of indigenous peoples concerning the development of energy projects. It will do this through the implementation of the indigenous chapter the energy policy in the long-term, developing consultation and participation processes pursuant to ILO Covenant 169, and drafting a guide for indigenous participation in the development of energy projects.

Likewise, the Ministry will promote the development of a “gender and energy agenda” seeking to enhance the role of women in the development of a national energy industry, from strengthening their capacity and knowledge in energy subjects to developing start-ups linked to the industry, and promoting the participation of women in the design and implementation of the Energy Policy.

Strand 4: Transparency and Participation

Linked to the cross-cutting demand for more dialogue, demand is also in place for higher participation. This necessarily requests more transparency enabling different actors to become involved in a more informed fashion and equal conditions.

4.1 The Ministry of Energy will:

- Encourage, within the framework of the Local Development Policy³⁵, the participation of communities in the different stages of the life-cycle of energy projects so that their interests may become known and be taken into consideration, as well as contributing to the general development of the localities receiving them. Diverse mechanisms will be promoted to facilitate participation (detailed in strand 2) and transparency in the processes carried out. Considering the above, an online Transparency Platform will be developed for communities to have access to the processes of dialogue that are taking or have taken place, the agreements reached and compliance, among other things.

- Include, within the framework of the Indigenous Chapter of the 2050 Energy Policy, in conjunction with the Ministry of Economy and the Indigenous Affairs Coordination Unit, business and human rights standards in the Indigenous Participation Guidance in the Development of Energy Projects.
- Promote, within the framework to implement the Indigenous Chapter of the 2050 Energy Policy, the right conditions for the social and technical viability of power generation projects, with total or partial participation in their ownership by the indigenous communities.

4.2 The Public-Private Cooperation Division of the Ministry of Social Development will include questions about the Guiding Principles in the 2017 Study about Social Performance of Business Enterprises, as well as the result of these variables in the final performance report, which will include an analysis of the results and their relationship with the SDGs. Medium and large-size public and private business enterprises will participate in the study.

4.3 The General Directorate of International Economic Relations will encourage transparency and inclusion of the civil society both in the process of negotiation and in the implementation of trade agreements, pursuant to the confidentiality framework agreed in each case thus generating spaces for the exchange of information, opinions and technical analysis, and through initiatives such as the Cuarto Adjunto³⁶.

4.4 The Ministry for the Environment:

- Commits itself to strengthen the effective enforcement of Principle 10 of the 1992 Rio Declaration about participation, access to information and awareness concerning environmental issues³⁷, within the context of the preparation of the Regional Instrument on Access Rights to Environmental Issues.
- In line with Principle 10 of the 1992 Rio Declaration, it will assess the development of methodologies allowing to facilitate access to environmental information available

concerning projects submitted to Environmental Impact Assessment System (EIA), by taking into consideration the complexity and depth of the subjects under discussion.

- The EIA will design que mechanism to establish the usefulness and impact of the *Guide for Early Community Involvement*, available since 2013, with the purpose of reporting communities at an early stage about projects submitted to the Environmental Impact Assessment System.
- Will promote the availability of spaces for dialogue and participation regarding climate change actions, including the organisation of workshops and public consultation meetings for the preparation of sector adaptation plans. This will be included within the framework of the *2017-2022 National Action Plan for Climate Change* -under preparation- which includes the concept of equity as a guiding principle, and gives special consideration to subject such as gender equality, human rights and indigenous peoples.
- Will seek to incorporate the gender focus in the next climate change adaptation plans, with the purpose of including the participation of women in the preparation and implementation of actions about this subject.

4.5 The Superintendence for the Environment will encourage that the subject of business and human rights is addressed in the Civil Society Council throughout 2017.

4.6 The Under-Secretariat of Economy will publish information in the website of the Social Responsibility Council for Sustainable Development concerning the Action Plan, its milestones, progress and performance, as well as similar initiatives in other jurisdictions, and access to explanatory material.

4.7 The Ministry of Labour will strengthen participation mechanisms, applying a preventive focus, processes and consultation and dialogue mechanisms through the Labour Higher Council.

Strand 5: Public Contracts

During activities with citizens' participation, it was repeatedly said, as highlighted by the Guiding Principles, that the State must lead by example and include human rights standards in the purchase of goods and services. Thus, the State not only integrates these standards in their own operations, but it also influences the actions and mechanisms of business enterprises celebrating contracts with the State.

- 5.1 The Chilean System of Public Purchases, (Chilecompra), has the mission to facilitate the contracting of goods and services by the State through a public market web platform, in the different purchase procedures. Chilecompra will:
- Incorporate an “Integrity Agreement” clause³⁸, where the supplier bounds himself/herself to respect human rights in accordance with the Guiding Principles. Through the integrity agreement, suppliers commit, *inter alia*, to act with transparency, probity and truthfulness regarding the information and details submitted in the tender papers. This clause will be included in all terms and conditions of the Framework Agreement, and use thereof will be encouraged in the terms and conditions of public tenders. For the correct understanding of this clause, Chilecompra will train suppliers in its contents, including the issues of business and human rights.
 - Assess the possibility to gather, through a relevant guideline, recommendations for buyers aimed at safeguarding the respect for human rights in the process of acquiring goods and services.
 - Carry out initiatives allowing to strengthen the information tool of the public purchase system. This will be made possible by adhering to *SEGPRES Open Government Plan*, under the commitment to create a set of Guidelines and a Policy of open data promoting and developing the use of open data in public purchase procedures to strengthen transparency of the Chilean System of Public Purchases and foster probity and efficiency in this area.

- Strengthen the inclusion of sustainability considerations in public purchase procedures, specifically through the following:
 - Development of a joint project with the Ministry for the Environment aimed at drafting policies for institutional purchases that take sustainability aspects into consideration.
 - Framework agreements including sustainability considerations relevant for the industry.
 - Online shop of the framework agreement including identifiable sustainability seals.
 - An Action Plan aimed at encouraging the participation of women in the system of public purchasing, through certain actions including a campaign to encourage the use of the *Sello Empresa Mujer* seal developed in 2016, which identify companies that are owned or led by women; an intensive work with purchaser to encourage the use of the *Sello Empresa Mujer* seal as a criterion in their purchases; training workshops for women that supply the State.
 - Commitment with the initiative “*She Trades*” led by the United Nations, which seeks to link business women with the marketplace, thus strengthening the economic actor role of women.
- 5.2 The Ministry of Foreign Affairs will gather information about the criteria used in purchases and tenders carried out by the institution with the purpose of identifying potential gaps and proposing improvement to the system.
- 5.3 The INDH will adopt a human rights and environmental policy for the purchase of goods and services.
- 5.4 The Ministry of Social Development will:

- Organise training, through the Division of Public-Private Cooperation, to be given to the Procurement Department of the Administration and Finance Division of the Under-Secretariat of Social Assessment, about the United Nations Guiding Principles on Business and Human Rights, releasing Chilecompras guidelines from their direct impact on human rights.
- The National Disability Service will review the operation of *Guideline 17 about inclusive public purchases that promote equal opportunities in the public marketplace*, with the purpose to improve its enforcement in line with the Guiding Principles.

Strand 6: Strengthening Coherence between Public Policies

There was constant mentioning at the participatory dialogues of the need to generate spaces for coordination within the State allowing to send a clear message about business and human rights by the different organisations and services, as well as regarding the public policies being exercised.

6.1. Among the efforts being made to implement the 2030 Agenda, the Ministry of Social Development will stress the importance of Human Rights and their relationship with the business industry. For this, the Ministry will:

- Disseminate the 2030 Agenda for Sustainable Development in, at least, two instances of participation and dialogue focused specifically on addressing the subject of rights in the social environment. Business enterprises, academic centres, the civil society, the State and autonomous bodies would participate in these activities.
- Carry out, for the dissemination of the 2030 Agenda, participation and reflection actions with business enterprises.
- Organise, during the diagnostic stage of the actions related with the 2030 Agenda, a first analysis workshop aimed at discussing proposals linked with the contribution of the private

sector to achieve the SDGs, with the participation of private businesses, academic centres, the civil society, the State and autonomous bodies.

6.2. The Ministry of Social Development will draft a proposal for gathering information about business and human rights, which includes the following:

- To review the international experience in the subject;
- To analyse current instruments for gathering information;
- To draft a proposal that includes indicators using the information available and require the gathering of new information.
- Through the National Service of the Elderly, will coordinate dialogues about the services that provide the elderly residences with a human rights approach through protocols guidelines. The dialogues will be with enterprises at a regional level that provide services of care to elderly people to disseminate the guidelines the Service has define.

6.3. The Ministry of Foreign Affairs will:

- Generate an opportunity to discuss, at a national level, about the integration of the Agenda of the Paris Agreement on Climate Change, the United Nations Guiding Principles on Business and Human Rights, and the 2030 Agenda on Sustainable Development, as well as about the challenges of these Agendas about the contribution of business enterprises. Regarding this national commitment, the Ministry is committed to generate cross-references about human rights and climate change in the reports prepared about these subjects submitted to international organisations.
- Through the General Directorate of International Economic Relations, it will:
 - Reinforce the work of committees created pursuant to chapters contained in trade agreements about SMEs, cooperation, gender, environment, transparency and labour matters, so that they include human rights-related objectives in their duties, thus becoming a forum for carrying out relevant dialogues. In line with the above, DIRECON will encourage the development of specific coordination activities in the committees and promote the development of technical capacities in human rights.

- Continue to promote, in international negotiations, both at a bilateral and multilateral level, Intellectual Property Schemes seeking a balance between the protection rights of inventors and creators and the interests of society in general. In this context, apart from promoting Intellectual Property, consideration will be given to the respect for the human right of having access to knowledge and culture, and the right to healthcare.
- Disseminate the importance of respecting human rights in global value chains (GVCs), encouraging the introduction of this matter in discussions held and worked carried out by the GVC Intergovernmental Group, as well as in presentations to the business community and other agents.

6.4. The Ministry of Economy will:

- Incorporate the Action Plan in the working agenda of the Economic Board integrated by the National Council for the Implementation of the 2030 Agenda on Sustainable Development, by following up the indicators proposed in the Action Plan that relate with the design and execution of the said Agenda.
- Prepare an annual report informing about the relationship between cooperatives and SDGs. This report will include a special chapter about human rights.

6.5 The Under-Secretariat of Social Security of the Ministry of Labour will coordinate national, regional and tripartite efforts concerning the *National Programme for Health and Safety in the Workplace*. This Programme seeks to promote the development of a national culture of prevention in health and safety issues; contribute to the protection of workers through the elimination of work-related dangers and risks, or to their reduction to a minimum level, with the purpose of preventing injuries, diseases and deaths caused by work and promote health and safety in the workplace. Implementation will be based on *ILO Convention No. 187 about the Framework for Health and Safety in the Workplace* and the *Programme of Government of the President of the Republic*, through a regional and nations process of

consultation to representatives of the employers, workers, government entities and bodies responsible for enforcing Law No. 16,744.

- 6.6. The Ministry of Mining will disseminate the most relevant elements of the new Regulation of Mining Safety, which promotes and sets out the rights and duties related with occupational health and safety matters.

Strand 7: Strengthening of International Political Coherence

While this process generated recommendations about coherence between policies at a national level, there were also recommendations identified about the importance of strengthening the coherence that must in Chile's position about business and human rights, both at international fora and regarding the signature of economic and other international agreements.

- 7.1 The Ministry of the Environment is currently involved in negotiations of the Regional Instrument about Principle 10 of the Rio Declaration about access to information, participation and justice in environmental matters, where it will take into consideration the business and human rights framework as relevant.

- 7.2. The Ministry of Foreign Affairs will:
- Through the Directorate of Human Rights:
 - Submit a report with recommendations to the *National Council for Sustainable Development* about the link between the Guiding Principles and the 2030 Agenda for Sustainable Development.
 - Create and coordinate a board aimed at generating material for the annual meetings held by the *Open-Ended Intergovernmental Working Group on Transnational Corporations and Other Business Enterprises with Respect to Human Rights*³⁹. The board will meet periodically with the purpose of generating proposals within the framework of this process, which will partially consist in

carrying consultations with the civil society to gather material and draft a proposal concerning this matter.

- Continue promoting the treatment and development of business and human rights in different regional and global fora such as, *inter alia*, the Pacific Alliance, the Organisation of American States (OAS), CELAC, UNASUR and Mercosur.
- Through the General Directorate of International Economic Relations:
 - Seek to strengthen, in the negotiation of trade agreements, the revision of current agreements and/or unilateral and joint statements with trade partners, certain criteria and provisions highlighting the importance of social sustainability and responsibility, with special focus on the respect for human, environmental, social and labour rights; for example, by mentioning the United National Guiding Principles on Business and Human Rights and or OECD Guidelines.
 - Propose, in the preamble of trade agreements, a language showing full commitment with the respect for fundamental human rights, thus continuing this the focus adopted in the agreement with the European Union.

7.3 The Unit for International Affairs of the Ministry of Labour will:

- Support the incorporation of the United Nations Guiding Principles in the trade agreements subscribed by our country, in coordination with the competent authorities, as relevant.
- Promote the Guiding Principles, which build on ILO Conventions on Human and Labour Rights, in different multilateral cooperation scenarios it takes part in.

Strand 8: Legislation, Policies and Incentives

The independent baseline developed for this process carries out an analysis of the legislation gaps existing in different sectors in business and human rights matters. Although legislation changes require long debate, the Plan is committed to carry out the following relevant measures:

- 8.1. The Ministry of Economy will support the legal provision committed in the Agenda for Productivity, Innovation and Growth seeking to create a legal framework for social business enterprises, by encouraging the incorporation of business and human rights criteria.
- 8.2. The Ministry of Energy will identify, promote and design the necessary mechanisms to implement the local development policy concerning energy projects. Among other things, the policy includes measures to support the assessment of impacts on the human rights of communities, and mechanisms to resolve the disputes that may arise between communities and business enterprises, within the context of the development of energy projects.
- 8.3. The Ministry of Labour and the Ministry of Social Development will continue promoting labour inclusion through the creation of the regulation supporting the Labour Inclusion Law, thus fostering inclusion from a human rights perspective.

Strand 9: State Business Enterprises

One of the focus areas of the Guiding Principles are public business enterprises and their special duty of care and diligence regarding the respect for human rights -because public business enterprises have the duty to lead by example.

- 9.1 The National Copper Corporation (CODELCO) will carry out a due diligence pilot project about human rights in one of its operations, in accordance with the commitments set out in the Corporate Sustainability Policy passed in December 2016⁴⁰.
- 9.2 The National Oil Company (ENAP), with the support of independent experts, will prepare a baseline to identify eventual impacts on human rights and the promotion and respect actions the Company is currently performing. This has the purpose to identify gaps and manage the relevant plans for human rights remediation and mitigations. Priority subjects included in the study will be: life, health, environment, water, communities and workers.

This initiative is based on the new *Sustainability Policy* passed by the Board of Directors in December 2016. It is composed of four strands: consideration of stakeholders, environment, integrated management and human rights.

- 9.3 The Ministry of Economy, Development and Tourism will support the incorporation of the Guiding Principles in the business enterprises forming part of the System of Public Business Enterprises (SEP)⁴¹.

To strengthen coordination between the Ministries forming part of the Inter-Ministerial Working Group, amplify the impact of this Action Plan, and make known its progress, the Group will carry out the following actions:

1. Formalise the Inter-Ministerial Working Group and the focal points of the various Ministries composing it, with the purpose of continuing holding periodic meetings and follow up regarding the implementation of this Plan (see Section V, Implementation and Monitoring).
2. Encourage the adoption of policies, statements or codes of conduct by business enterprises and urge the implementation of mechanisms of due diligence.
3. Announce progress made in the implementation of this Action Plan through a banner published in the institutional web portal of each relevant Ministry.

Pillar 2: The Corporate Responsibility to Respect Human Rights

According to the Guiding Principles, the responsibility to respect human rights is applicable to all sorts of business enterprises, regardless of place where they have their operations, their size, sector, operational context, owner and structure, and along the complete value chain. This responsibility exists regardless of the State's capacity or will to comply with their own obligations regarding human rights and does not reduce such obligations. It is an additional responsibility to that of complying with national laws and regulations. Facing the negative impacts concerning human rights implies taking the proper measures to avoid, mitigate and remedy the same.

The Guiding Principles propose that business enterprises comply with their responsibility to respect human rights through due diligence in the field of human rights -a continuous process of management that business enterprises must carry out, according to their own circumstances, to address their duty to respect human rights.

Human rights referred to in this duty to respect, are internationally recognised rights embracing, at least, the rights mentioned in the International Bills of Human Rights and the principles related with fundamental rights set out in the Declaration of the International Labour Organisation.

Actions proposed in this Plan have been conceived to support building capability processes in business enterprises, as well as for encouraging the implementation of due diligence mechanisms in human rights by them.

This has the purpose of identifying, preventing, mitigating and, if relevant, repairing the actual and potential negative impacts within the scope of their operations.

Actions proposed in this section point out directly -and in a cross-cutting way- at contributing

What does the Government expect from business enterprises?

- That they comply with and respect the existing legislation.
- That they know and get acquainted with the international instruments on social responsibility, such as the UN Guiding Principles on Business and Human Rights, OECD Guidelines, and ILO Tripartite Statement.
- That they apply due diligence in the field of human rights with the purpose of identifying the potential risks of impacts on human rights by their operations.
- That they create operational mechanisms for remedy allowing them to identify potential impacts and establish remedial actions in case this happens.

to comply with the 2030 Agenda as far as business enterprises' contribution is concerned. It is worth mentioning that 156 of the 169 targets (over 92%) of the SDGs are intrinsically related with human rights and labour standards instruments.

When business enterprises act respecting human rights in their corporate and value chain operations, they “generate a large-scale, unprecedented positive impact on people who most need to receive the effects of sustainable development”.⁴²

Moreover, human rights must be recognised as a development objective by itself. Example of this is SDG 8 about decent work and sustainable economic growth, and SDG 12 about Responsible Production and Consumption cannot be achieved without ensuring, as a first step, corporate respect for human rights. Thus, the Guiding Principles offer a guideline to comply with such duty.

Pillar 2 of the Guiding Principles: The Duty of Companies to Respect

1. Founding Principles: Guiding Principles Nos. 11, 12, 13, 14 and 15.
2. An explicit commitment to take on their duty to respect human rights: Guiding Principle No. 16.
3. Due diligence in human rights: Guiding Principles Nos. 17, 18, 19, 20 and 21.
4. Impact remedial actions: Guiding Principle No. 22
5. Contextual issues: Guiding Principles N ° 23 and 24

Strand 1: Contextual issues: Development of texts allowing business enterprises to understand the local context and the risks of potential negative impacts on human rights.

It is of utmost importance that business enterprises find ways to respect internationally recognised human rights, even if they lack continuous specialised advice or when the national context and/or circumstances where they operate may hinder or limit the full performance of their duties. In this sense, the measures contained in this heading focus on facilitating and updating the tools helping business enterprises to access to the necessary information about the applicable

legislation and context so that they can:

- Comply with all applicable laws and respect internationally recognised human rights, wherever they operate.
- Look for ways helping them to respect human rights when they need to comply with conflicting demands.
- Take into consideration the risks involved in causing or helping to cause serious human rights violations, as a matter of law enforcement, wherever they operate.

- 1.1. The Ministry of Foreign Affairs will streamline they webpage on business and human rights to include tools, guides, guidelines and news, as well as the progress made by the National Action Plan. For this, it will seek the support of international institutions.
- 1.2. The National Institute of Human Rights will:
 - o Disseminate and update the Country Guide on Business and Human Rights with support from business enterprises, the civil society, unions and academia.
- 1.3. The National Health Institute will coordinate, with expert support, the preparation of a study about the impact of the pharmaceutical industry.
- 1.4. The Ministry of the Environment will prepare a study about the links between the *Law creating the Actual Right of Conservation (DRC)* and the Guiding Principles⁴³.
- 1.5. The Ministry of Energy will keep updated the standard guide for participating in the development of energy projects, and will prepare a guide for indigenous participation in the development of energy projects. It will also prepare the guide for local development of the localities where such projects are settled, which will drive the actions of business enterprises and communities about the contribution to development that can be offered by these institutions.
- 1.6. The Environmental Assessment Service will prepare the *Guide for Describing the Human Environment with Gender Focus for the Assessment of Environmental Impact*. Such Guide is meant for the owners of projects submitted to the SEIA.

Strand 2: Promotion of corporate due diligence in the field of human rights

In accordance with the Guiding Principles and other international standards, such as the OECD Guidelines for Multinational Enterprises, due diligence allows managing and addressing the potential risks and adverse impacts on human rights caused by corporate activities.

Due diligence in human rights urges business enterprises to identify, prevent, mitigate and respond for the negative consequences of their activities on human rights, be them action or omissions directly with their operations, their products or services. Likewise, they must apply that care in their trade relations, including in deals with trade partners, bodies incorporated in their value chain and in any other instance related directly with their trade operations, products or services.

Steps of due diligence in human rights

1. Assessment of actual and potential impacts.
2. Integration and actions based on conclusions.
3. Follow up of relevant responses.
4. Communication of such impacts.

The need for the State to generate an understanding among business enterprises about due diligence in human rights was often mentioned in the citizens' dialogues, as well as the creation of spaces allowing to clarify how to develop these processes at a local level.

- 2.1. The Ministry of Foreign Affairs, through the General Directorate of International Economic Relations, will:
- o Promote human rights in the management of public funds to promote exports carried out by ProChile, through the progressive incorporation of analysis mechanisms helping to ensure that business enterprises having access to the tools offered by this entity respect human rights. Likewise, it will establish, if relevant, requirements about sustainability and respect for human rights, as criteria to choose the business enterprises participating in programmes to promote exports and corporate activities, including SMEs and micro SMEs.
 - o Disclose to business enterprises who are members of ProChile the United Nations Guiding Principles, thus helping, in this was and as far as possible, to incorporate them

in their activities. It will do this through information available in the website, talks or sets of tools to strengthen their capabilities, and/or through the publication of handbooks containing the Guiding Principles or another suitable instrument, with special focus on information and training provided to SMEs.

2.2. The Ministry of Economy, Development and Tourism will:

- Hold a working group at least once each semester with the Division of Social Economy and Associativity and the Division of Smaller Business Enterprises with the purpose of identifying the impact of human rights in the management of businesses such as cooperatives and SMEs, and of incorporating the vision of human rights and business enterprises within this type of economic associations. Based on the activities of these working groups, sector guides will be developed to evaluate compliance with human rights issues, with special emphasis on the management of supply chains.
- Create working groups in conjunction with the Under-Secretariat of Fisheries and Aquaculture and the Under-Secretariat of Tourism, which will have the duty to analyse and create mechanisms allowing to monitor these sectors regarding their respect for human rights. It will encourage and work with SEP for the adoption of an audit system in the field of human rights.
- Support the Ministry of Energy in the development of a Guide about the impact of projects on local communities, seeing to the integration of business and human rights standards into the development of projects within communities and, particularly, containing best practices about due diligence in human rights-related issues.
- Agree, with business enterprises represented in the Social Responsibility Council for Sustainable Development, upon the development of memorandums of understanding, guides, handbooks and guidelines containing best practices, so that they can become an integral part of business and human rights standards in the following subject matters: labour practices, impact on communities, corporate practices and supply chain management.

- Propose guidelines for business enterprises to have remedial mechanisms available.
- Coordinate technical meetings with SEP, CORFO, SERNAC and SERCOTEC to agree on the incorporation of targets and indicators of compliance with human rights standards in these services.
- Look to generate strategic alliances with banking institutions to facilitate access to financial services to cooperatives -which projects integrate an actual and potential analysis of the contribution and impact that the business may have on human rights.
- Subscribe in 2017 an agreement with a technical specialised body to develop a system to diagnose and measure the impact of small and medium size enterprises on human rights, through a digital tool of public access.

Strand 3: Report in the field of human rights

The Guiding Principles stress the importance of the State in terms of encouraging business enterprises to communicate the way they address the risks of adverse impacts on human rights -through reports or other means. Sustainability reports may contain information about the way the business enterprise had identified and addressed risks in the field of human rights.

The Superintendence of Securities and Insurance enacted in 2015 general regulations Nos. 385 and 386. Pursuant to the latter, open stock companies must report their corporate government practices, social responsibility and sustainable development through an electronic form for this purpose. By virtue of regulation No. 386, corporations shall include in the company's annual report information about diversity in the board of directors, diversity at a general management and other management levels, and diversity in the organisation and salary gap per gender.

3.1. The Ministry of Economy will:

- Encourage the development of a Guide about the duty of public enterprises regarding human rights.
- Foster the use of reporting mechanisms about human rights between public business enterprises.

- o Promote, through the Division of Associativity and Social Economy, strategies and mechanisms of accountability and non-financial reporting for cooperatives, which will include the potential risks of their businesses on human rights. To encourage the use of this practice, an electronic template will be developed in 2017, free of charge and freely available, for these bodies to report to the State and their different target audiences.

Pillar 3: Access to Redress Mechanisms

Access to justice is essential to make human rights effective, and is recognised as a human right by itself. Furthermore, the 2030 Agenda promotes equal access to justice to build peaceful and inclusive societies for everyone (SDG 16 and target 16.3). Even when States and business enterprises use the best mechanisms to prevent risks regarding human rights, there is always the possibility that business operations may have negative impacts on these rights. Therefore, it is important to ensure that people and communities affected have access to remedy through effective mechanisms of judicial and non-judicial remedial actions.

The Guiding Principles set out that States should take the proper steps to guarantee, through judicial, administrative, legislative and other relevant means, that the people affected may have access to effective remedy. This is considered as an integral part of the State duty to protect against human rights violations related with corporate activities. For this purpose, the Guiding Principles identify three types of remedy: State-based judicial mechanisms, State-based non-judicial mechanisms, and Non-state-based mechanisms.

Examples of Redress Mechanisms in 3 levels

State-based judicial mechanisms: Ordinary and special courts of justice (environmental and labour courts, among others.)

State-based non-judicial mechanisms: National Contact Point for OECD Guidelines, Labour Directorate, Superintendences, INDH, among others.

Non-state-based mechanisms: Claiming mechanisms at an operational level within business enterprises, Complaint mechanism of the International Finance Corporation (IFC), among others.

Depending on the specific case, context and redress mechanism, different redress measures may be decided, namely:

- Pecuniary or non-pecuniary compensations.
- Public apologies.
- Restitution of rights.
- Guarantees of non-repetition.

Regarding the 2030 Agenda, the United Nations Working Group on Business and Human Rights has set out that States should have a clear vision enabling them to

connect the increasing role that business enterprises play in development, including accountability and agreed standards for corporate practices in line with human rights. In this regard, it is fundamental to ensure that the role of business enterprises in development is matched with proper accountability. Aimed at guiding the actions of business enterprises from a human rights point of view, this Plan seeks to ensure that coherence with the 2030 Agenda, also with the purpose of ensuring corporate accountability in terms of the efforts they make regarding the SDGs.

Pillar 3 of the Guiding Principles: Access to remedy

1. State-based judicial mechanisms: Guiding Principle No. 26
2. State-based non-judicial mechanisms: Guiding Principle No. 27
3. Non-state-based mechanisms: Guiding Principles No. 28, 29 and 30
4. Criteria for the effectiveness of non-judicial grievance mechanisms: Guiding Principle No. 31

Strand 1: State-Based Judicial Mechanisms

Judicial mechanisms must be accessible, affordable and effective to ensure access to remedy. This requires guaranteeing the availability of the necessary proper resources and information enabling all people and groups to demand the respect for their rights before all existing relevant bodies. The State must have the capacity to fight against human rights violations committed by business enterprises, thus guaranteeing fair and prompt redress under the principles of autonomy, impartiality and independence.

In this context, Principle 26 of the Guiding Principles urges States to adopt the necessary steps to ensure the effectiveness of national judicial mechanisms when addressing the adverse impacts on human rights related with business enterprises, particularly, when taking into consideration the way to avoid legal, practical and other type of obstacles that may lead to deprived access to redress mechanisms.⁴⁴

- 1.1. The Research Division of the Supreme Court will prepare a Legal Collection on Business and Human Rights aimed at analysing the Court's jurisprudence trends regarding this matter.⁴⁵
- 1.2. The Ministry for the Environment will coordinate joint work with the competent bodies aimed at training Environmental Courts in business and human rights-related aspects.

Strand 2: State-Based Non-Judicial Mechanisms

In line with Principle 27 of the Guiding Principles, States must develop effective and appropriate non-judicial grievance mechanisms, at the same time as judicial mechanisms, as an integral part of a comprehensive state system to redress the violation of human rights by business enterprises.

The State must inform the public about the existence and operation of these mechanisms, and take into consideration and act upon their recommendations. These mechanisms should also keep an open dialogue with citizens, especially with risk populations within the framework of corporate activities. It is desirable that these mechanisms are introduced, upon their mandate, at international exchanges and development for a about business and human rights; for example, they could be included in discussions with regional and global human rights institutions and in the revisions made to the progress achieved by the 2030 Agenda.

- 2.1 The National Contact Point for OECD Guidelines (NCP) of the Ministry of Foreign Affairs will adopt a series of measures to strengthen its duties. For this, it will:
 - o Renew and strengthen the Mirror Committee, a body composed by representatives from the business community, unions, NGOs, and academia -with the support of the INDH. The Committee's main role is advising the NCP and supporting his/her work, including the dissemination and treatment of the cases he/she receives. This role will be

strengthened by renewing the Committee to enhance the promotion of a Responsible Corporate Behaviour among national stakeholders.

- Submit, in conjunction with the Directorate of Human Rights of the Ministry of Foreign Affairs, before the Mirror Committee of the National Contact Point, the existing relationship between the OECD Guidelines for Multilateral Enterprises and the United Nations Guiding Principles on Business and Human Rights.
- Prepare, in conjunction with the National Human Rights Institute, an Agreement of Good Intentions with the purpose strengthening communication between both organisations, share information about potential specific situations and infringement of the Guidelines, specifically regarding the chapter on human rights, and carry out joint execution of the same in dissemination and training activities.
- Organise, in conjunction with the Directorate of Human Rights of the Ministry of Foreign Affairs, dissemination and training activities, covering both instruments, for different national stakeholders, by including the mediation/conciliation role of the National Contact Point in the resolution of disputes with multilateral enterprises. Activities include the preparation of a briefing leaflet covering the relationship between OECD Guidelines and the Guiding Principles.
- Keep the Trade Offices periodically updated, both at a national and international level, as well as the Chilean Embassies abroad and future Chilean diplomats, about OECD Guidelines, through official messages, teleconferences, visits to Embassies/Regional Offices and coordination of the Chilean Diplomatic Academy.
- Be voluntarily evaluated in 2017 through peer review, which will allow the country to identify the NPC's strengths, as well as its points of improvement, thus becoming the first State in Latin America and the Caribbean to go through this kind of process.

2.2. The Ministry of Labour will guarantee access to surveillance actions should labour rights be

infringed, by modernising the Labour Directorate.

2.3. The National Institute of Human Rights will:

- Introduce business and human rights standards in observation missions and reports.
- Collaborate with the OECD National Point of Contact in business and human rights-related matters.

2.4 The Superintendence of the Environment (SMA) will:

- Permanently update the National Information System for Environmental Surveillance, in publicly accessible website.
- Apply diverse prioritising criteria, such as “territorial vulnerability”, which addresses institutional and geographical aspects, and “grievances”, by taking into consideration the number of grievances received from citizens and the different sectors.
- Apply prioritising criteria for the processing and procedure of grievances submitted by citizens, such as “Level of seriousness of the facts reported” and “Public commotion”⁴⁶.
The SMA has available a process for the community the raise grievances about facts that may represent infringements falling under its competence.
- Apply the Technical Protocol for the Execution of Environmental Surveillance Activities concerning Measures Associated with the Human Environment, in the surveillance of measures contained in Environmental Qualification Measures Associated with the Human Environment (indigenous or non-indigenous.)

2.5. Within the framework of the Local Development Policy of the Ministry of Energy, the following actions will be carried out:

- Promotion, in coordination with other relevant public services, and through multi-sectoral dialogue, the development and implementation of a grievance mechanism

so that business enterprises and communities may forward to the authority their concerns about non-compliance of an agreement existing between the parties.

- o Promotion of formal and permanent spaces for dialogue between business enterprises and communities, whereby potential impacts may become known and the relevant measures may be taken. For smooth operation of these spaces for dialogue, the public sector will promote the availability of a record of advisors and facilitators to be used by communities, and a Symmetry Fund⁴⁷ allowing to finance such advisors or facilitators.

2.6 Within the framework of the *Energy Policy, the Local Development Policy and the Chapter on Indigenous Relevance of Energy 2050*, the Ministry of Energy will promote the development of mechanisms for the resolution of disputes between communities and business enterprises within the context of the development of energy projects, will may consist in, *inter alia*, mediation, redress or other mechanisms that may be relevant.

Strand 3: Non-State Based Mechanisms

Non-state based redress mechanisms play an important role in the design of a holistic remedy system in the field of business and human rights, since this allow the owners of rights to look for redress actions outside or beyond the state-based system. In this regard, States must study the way to facilitate access for such non-state-based redress mechanisms to take care of violations against human rights related with business enterprises.

A category of non-state-based mechanisms are those managed by a business enterprise alone, or in conjunction with stakeholders, by an economic association, or by a multilateral group of stakeholders. This allows business enterprises and communities to develop spaces for dialogue, measurement, resolution and/or remedy, and to look for solutions within the relevant administrative structures that are culturally appropriate and compatible with human rights. When these

mechanisms are developed within the framework of business and human rights, they may offer concrete advantages to resolve situation that may potentially vulnerate human rights, such as prompt access and remedy, reduced costs and/or cross-border reach.

Likewise, Principle 29 highlights the fact that business enterprises should set out or participate in effective grievance mechanisms available, at an operational level, to people and communities that may suffer from negative consequences, and so that the damage caused may be promptly and directly redressed.

3.1. The Under-Secretariat of Economy, supported by the Ministry of Foreign Affairs, will coordinate the preparation of a booklet containing guidelines about operational grievance mechanisms that may be adopted by business enterprises. It will consult, for drafting this document, with business enterprises participating in the business and human rights working group (a commitment set out in the table about the contribution of other actors, page 86.)

Strand 4: Criteria for the Effectiveness of Non-Judicial Grievance Mechanisms

The Guiding Principles include criteria for non-judicial grievance mechanisms, both state-based and non-state-based aimed at ensuring their effectiveness. These mechanisms are:

- Legitimacy
- Accessibility
- Predictability
- Equity
- Transparency
- Compatibility with rights
- Source of continuous learning
- Based on dialogue and participation

- 4.1 All actions contained in this Plan related with state-based non-judicial mechanisms and non-state-based mechanisms will refer to these Principles of Effectiveness for their implementation and continuous improvement.

- 4.2. All training and other actions included in this Plan addressing the subject of business and human rights will make special reference to non-judicial grievance mechanisms available in Chile and the principles of effectiveness.

Contributions by Other Actors

Although this Plan was prepared by State institutions, it seeks to become a platform collecting the existing efforts for the implementation of the business and human rights agenda in Chile. Therefore, it is an invitation for other institutions that may wish to participate and commit actions within this framework.

In this regard, the following institutions will contribute in the development of this agenda at a national level based on the following commitments:

1. UNICEF Chile will coordinate the development of a baseline to collect the potential negative impacts on the human rights of boys, girls and youngsters by the activity of business enterprises in Chile, including recommendations. The findings of this information gathering and recommendations will be publicly available, and delivered to the relevant authority.
2. Fundación Casa de la Paz, with the support of the Inter-Ministerial Working Group, will lead the process to create the “*Guías Chile*” initiative, with the purpose of gathering business enterprises, civil society organisations and the Government to improve business practices in the field of human rights in the Chile.
3. Global Compact Chile will organise a series of activities with technical support by the Directorate of Human Rights of the Ministry of Foreign Affairs and international organisations. This will have the purpose of building capabilities regarding the Guiding Principles and the Sustainable Development Goals in business enterprises that are members of Global Compact Chile, such as:
 - Creation of a Working Group on Business and Human Right in Global Compact.
 - Introduction workshop about their application, practice and connection with the SDGs.
 - Four working sessions aimed at including the human rights focus and how it is applied by business enterprises about the SDGs.
 - Collection and dissemination of tools for the adoption of due diligence by companies, in line with the SDGs, introducing material available of the Global Compact World Office.
 - Creation, in conjunction with the Ministry of Foreign Affairs, of the criteria to choose best practices available about human rights in the System for the Integration of Compact

Principles (SIPP). The Framework for Reporting in Human Rights will be taken as a reference.

- Work with the Ministry of Economy to promote the subscription by business enterprises who are members of the Global Compact, in the Ministry's initiatives that have incidence on this Plan.

4. The Santiago Stock Exchange will coordinate with trading business the holding of training workshops on business and human rights. For this, it will have the technical support of the Directorate of Human Rights of the Ministry of Foreign Affairs and international institutions.

5. Fundación ACCIÓN Empresa will:

- Prepare a study about main challenges existing in this field, starting by the corporate role, to comply with the Guiding Principles, with the purpose of contributing strategies to resolve issues through good corporate practices in this field.
- Create a *Corporate Committee for Responsible Supply*, aimed at identifying the best corporate practices in place to minimise the infringement of rights in their value chain. It includes 4-6 annual sessions.

6. The Social Responsibility Council for Sustainable Development will create a working group for business and human rights. This initiative will have the purpose of analysing strategies introducing human rights standards in corporate activity, sharing best practices y reviewing documents and tools to be promoted by the Council in this field.

IV. Implementation, Monitoring and Follow Up

This National Action Plan will last three years, i.e. it will be in place between 2017 and 2019.

The Plan is a first step in a continuous and progressive process. Therefore, this policy is considered a living document whose initiatives will be continuously evaluated and monitored, with the relevant adaptations if necessary. There are elements, actions and initiatives requiring some precisions and adjustments along the development process, for which reason different revision and feedback actions have been taken into consideration allowing to improve and adapt measures that require so.

To ensure an effective implementation and monitoring of the Action Plan, a supplementary document containing indicators has been prepared detailing the institution responsible for enforcing compliance of each measure, indicators, as well as regarding the time defined for that purpose. The responsible institution shall report to the Inter-Ministerial Working Group about the implementation stage of their measures to facilitate the monitoring and follow up process of the Plan.

These indicators will smooth the follow up process of the Plan at a national level, allowing the Chilean State to report before regional and international follow up and evaluation fora about its progress in matters of human rights and sustainable development.

Apart from the supplementary information about indicators, the following actions will be performed to follow up, monitor and give continuity to the Action Plan.

1. At a national level, the Inter-Ministerial Working Group will be formalised by enacting the relevant Decree. This will have the objective to implement, monitor and follow up the Plan's optimal implementation. This Working Group will have an Executive Secretariat responsible for coordinating the preparation of the annual report and for its relationship with the Multi-

Actor Committee.

2. The Inter-Ministerial Working Group will prepare an annual report, starting in late-2017, about compliance of measures according to the indicators set out. Before preparing the report, a previous meeting will be held to evaluate the progress and challenges arisen in the implementation of the Plan.
3. This document will be published in the Action Plan's webpage; it will also be sent to the authorities and institutions that have contributed in the execution thereof, as well as to representatives of the Judicial and Legislative Powers, with the purpose of reporting about the progress of the Action Plan.
4. A Multi-Actor Committee will be created with the participation of representatives from the civil society, unions, the business community, indigenous peoples, academia, and the National Human Rights Institute, with the purpose of evaluating the progress contained in the report produced by the Inter-Ministerial Group, and providing feedback and/or recommendations about the effective implementation of the Plan.
5. Progress achieved by the Action Plan will be also incorporated in reports about the 2030 Agenda in Chile, both regarding the global and regional mechanisms.
6. The Economic Working Group for implementing the 2030 Agenda will incorporate progress made by the Action Plan to the progress achieved in the SDGs 17 in compliance reports.
7. The Ministry of Foreign Affairs will report to the different international mechanisms of human rights about the progress achieved by the Plan -pursuant to the timeline set out by them.
8. One year before the term is over, the Inter-Ministerial Working Group will define a roadmap to prepare the Second National Action Plan on Business and Human Rights, which will be submitted to the Multi-Actor Committee with the purpose to propose new courses of action and start the second process.

V. Proposal of a Roadmap for an Upcoming Action Plan

This Action Plan seeks to strengthen human rights in the business community; however, it will require future monitoring and deepening. Some topics that could be worked on in the following process in this framework, will be:

1. Involvement of other Ministries and public institutions, such as: the Ministry of Public Works, Ministry of Education, Ministry of Housing, Ministry of Agriculture, Ministry of Finance, Ministry of Health, Ministry of Transport and Telecommunications, Corfo, Sercotec, Sernageomin, Cochilco, Agency for Sustainability and Climate Change and Superintendencies.
2. Involvement of the judicial and legislative powers.
3. Involvement of all state business enterprises.
4. Evaluating the preparation of studies impact risks on human rights by the industrial sector.
5. Evaluating the application of the *Sello Igual*, by considering human rights criteria.
6. Evaluating new categories for which a business enterprise could not contract with the State, according to human rights criteria.
7. Evaluating the incorporation of human rights criteria in the audits of the SMA.
9. Incorporation of matters related with the risks of human rights violations in supply chains and inclusion of LGBTI people.
10. Incorporation of recommendations emanating from the reports made in this Action Plan through concrete actions.
11. Incorporation of aspects related with foreign investment.

12. Evaluating an awareness strategy for civil servants whose field of competence relates with the creation, competitiveness and internationalisation of business enterprises.
13. Evaluating actions related with the activities of Chilean businesses operating abroad.
14. Evaluating the progressive incorporation of human rights criteria into State agencies that support business enterprises.

VI. Main International Instruments of Human Rights

Main International Treaties on Human Rights - Universal System (UN)		
INSTRUMENT	DATE	RATIFICATION
International Convention on the Elimination of All Forms of Racial Discrimination	21 Dec. 1965	20 October 1971
International Covenant on Civil and Political Rights	16 Dec. 1966	10/02/1972
International Covenant on Economic, Social and Cultural Rights	16 Dec. 1966	10/02/1972
Convention on the Elimination of All Forms of Discrimination against Women	18 Dec. 1979	07/12/1989
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	10 Dec. 1984	30/09/1988
Convention on the Rights of the Child	20 Nov. 1989	13/08/1990
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	18 Dec. 1990	25/03/2005
International Convention for the Protection of All Persons from Enforced Disappearance		2009
Convention on the Rights of Persons with Disabilities	13 Dec. 2006	29/07/2008
Optional Protocol to the International Covenant on Economic, Social and Cultural Rights		Signed in 2009 Not ratified
Optional Protocol to the International Covenant on Civil and Political Rights	16 Dec. 1966	1992

Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of death penalty	15 Dec. 1989	2008
Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women	10 Dec. 1999	Signed on 1999 Not ratified
Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict	25 May 2000	31/07/2003
Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography	25 May 2000	06/02/2003
Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	18 Dec. 2002	12/12/2008
Optional Protocol to the Convention on the Rights of Persons with Disabilities	12 Dec 2006	2008
Main international treaties on human rights - Inter-American System (OAS)		
INSTRUMENT	DATE	RATIFICATION
American Convention on Human Rights	22 November 1969	08/10/90
Inter-American Convention to Prevent and Punish Torture	9 December 1985	09/15/88
Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights "Protocol of San Salvador"	17 November 1988	Signed on 06/05/01 Not ratified
Protocol to the American Convention On Human Rights to Abolish the Death Penalty	8 June 1990	08/04/05
Inter-American Convention on The Prevention, Punishment and Eradication of Violence Against Women "Convention of Belem do Para"	9 June 1994	10/24/96
Inter-American Convention on Forced Disappearance of Persons	9 June 1994	01/13/10
Inter-American Convention on the Elimination of all Forms of Discrimination Against Persons with Disabilities	7 June 1999	12/04/01
Inter-American Convention Against Racism, Racial Discrimination and Related Forms of Intolerance	5 June 2013	Signed on 10/22/15 Not ratified
Inter-American Convention Against all Forms of Discrimination and Intolerance	5 June 2013	Signed on 10/22/15 Not ratified
Inter-American Convention on Protecting the Human Rights of	15 June 2015	Signed on 06/15/15

Older Persons		Not ratified
Main treaties International Labour Organisation (ILO)		
INSTRUMENT	DATE	RATIFICATION
Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87)	04 July 1950	01 February 1999
Right to Organize and Collective Bargaining Convention, 1949 (No. 98)	18 July 1951	01 February 1999
Forced Labour Convention, 1930 (No. 29)	28 June 1930	31 May 1933
Abolition of Forced Labour Convention, 1957 (No. 105)	17 January 1959	01 February 1999
Minimum Age Convention, 1973 (No. 138)	19 June 1976	01 February 1999
Worst Forms of Child Labour Convention, 1999 (No. 182)	19 November 2000	17 July 2000
Equal Remuneration Convention, 1951 (No. 100)	23 May 1953	20 September 1971
Discrimination (Employment and Occupation) Convention, 1958 (No. 111)	15 June 1960	20 September 1971

Main treaties by protected group		
INSTRUMENT	DATE	RATIFICATION
Indigenous Peoples		
American Declaration on the Rights of Indigenous Peoples	14 June 2016	
Universal Declaration of the Rights of Indigenous Peoples	13 September 2007	
ILO Convention 169	27 June 1989	15 September 2008
Migrants		
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	18 December 1990	25/03/2005

Older adults		
Inter-American Convention on the Protection of the Human Rights of Older Persons	15 June 2015	15 May 2015
Women		
Convention on the Elimination of All Forms of Discrimination against Women	18 Dec.1979	07/12/1989
Inter-American Convention on The Prevention, Punishment and Eradication of Violence Against Women "Convention of Belem do Para"	9 June 1994	10/24/96
Children		
United Nations Convention on the Rights of the Child	20 November 1989	14 August 1990
People with disabilities		
Convention on the Rights of Persons with Disabilities	13 Dec 2006	27/07/2008

Notes

¹ In addition to the Ministries -mentioned above- that committed initiatives in a series of areas, other institutions involved were Chilecompra, the Superintendence for the Environment, the National Statistics Institute and the Public Health Institute.

² Created through Decree No. 49, by the Ministry of Foreign Affairs.

³ The Council was created through Decree No. 60 by the Ministry of Economy in 2013. The Social Responsibility Council for Sustainable Development has the following members: Natalia Piergentili, Under-Secretary of Economy and Council Chair; Waldemar Coutts, Director for the Environment at the Ministry of Foreign Affairs; Paulina Nazal, Director General of Economic Affairs; Eliel Hasson Nisis, Representative from the Ministry of Labour; Alejandra Figueroa, Head of the Division of Natural Resources, Residues and Risk Assessment of the Ministry for the Environment; Trinidad Inostroza, Director of ChileCompra; Branislav Marelic, Director of the Human Rights Institute; María Paz Epelman, President of Acción RSE; Miguel Santibáñez, President of the Chilean Association of NGO, ACCIÓN; Dante Pesce, Centro Vincular PUCV; Andrés Aguilera, Secretary of International Relations of CUT (Labour Unions); Hugo Caneo, Director of Corporate Government and Capital Markets of University of Chile; Alejandra Vallejos, the Council's Executive Secretary; José Luis Ramírez, Secretary General of UNAPYME –EMT; Felipe Lopeandia, OECD National Point of Contact; Margarita Ducci, Executive Director of the Global Compact Chile; Hermann von Mühlenbrock, President of Sofofa; Peter Hill, President of CCS; Alberto Salas Muñoz, President of CPC; Cristián López, Executive Director of ASECH; Juan Araya Jofré, Vice-President of Conapyme.

⁴ Resolution of the United Nations Human Rights Council A/HRC/RES/17/4, available here: <https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/G11/144/74/PDF/G1114474.pdf?OpenElement>. "Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework", available here: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G11/121/93/PDF/G1112193.pdf?OpenElement>.

⁵ Resolution of the OAS General Assembly 2014:
https://www.oas.org/es/sla/ddi/docs/AG-RES_2840_XLIV-O-14.pdf y Omnibus Resolution “Promotion and Protection of Human Rights”, OAS General Assembly 2016.

⁶ The International Bill of Human Rights is composed of the Universal Declaration on Human Rights; the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social and Cultural Rights (ICESCR.)

⁷ ILO Declaration on Fundamental Principles and Rights at Work, available here:
<http://ilo.org/declaration/lang--es/index.htm>.

⁸ A/HRC/RES/26/22, available here: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/083/85/PDF/G1408385.pdf?OpenElement>.

⁹ OAS General Assembly Resolution 2014:
https://www.oas.org/es/sla/ddi/docs/AG-RES_2840_XLIV-O-14.pdf; Meeting of the Committee on Juridical and Political Affairs on Business and Human Rights:
http://www.oas.org/es/sla/ddi/boletines_informativos_sesion_especial_derechos_humanos_empresa_2015.html.

¹⁰ Omnibus Resolution "Promotion and protection of human rights", OAS General Assembly 2016.

¹¹ Guidance on National Action Plan on Business and Human Rights, available here:
http://www.ohchr.org/Documents/Issues/Business/UNWG_%20NAPGuidance.pdf.

¹² The Ten Principles of the United Nations Global Compact address human rights and point out that the Guiding Principles provide greater conceptual and operational clarity in this regard. In turn, in 2011, the OECD revised its Guidelines for Multinational Enterprises -a non-binding code of conduct for multinational corporations- and incorporated a human rights chapter designed to be consistent with the Guiding Principles. In addition, the OECD system of national contact points offers a complaint mechanism to help find a solution to cases of non-compliance with the Guidelines. The Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy was adopted in 1977 and revised in the years 2000, 2006 and 2017. The last revision incorporated the elements of the Guiding Principles. The International Finance Corporation (IFC) has also incorporated the responsibility of business enterprises to respect human rights in their revised Sustainability Framework and Performance Standards in 2011. These standards apply to IFC's corporate clients. As for the ISO 26000 standard on social responsibility, the human rights section of the standard was substantially aligned with the UN Guiding Principles in 2010. For their part, multiple global and industrial business associations have jointly and publicly reaffirmed their commitment to the Guiding Principles and have highlighted the central role that their implementation should play in the business contribution to sustainable development.

¹³ “Modern Slavery Act” of the United Kingdom, available here:
http://www.legislation.gov.uk/ukpga/2015/30/pdfs/ukpga_20150030_en.pdf.

European Transparency Directive, available here: <http://eur-lex.europa.eu/legal-content/ES/TXT/?uri=CELEX%3A32014L0095>.

“Devoir de vigilance des sociétés mères” from France, available here: <https://www.senat.fr/dossier-legislatif/ppl14-376.html>.

¹⁴ Resolution of the United Nations General Assembly No. 69/315 “Draft outcome document of the United Nations summit for the adoption of the post-2015 development agenda”.

¹⁵ Supreme Decree of the Ministry of Foreign Affairs No. 49/2016, published in the Official Gazette in May 24, 2016.

¹⁶ Action Plan for the period 2015-2018 Social Responsibility Council for Sustainable Development, available at: <http://consejors.economia.cl/>.

- ¹⁷ Order of Service from the Under-Secretariat of Foreign Relations No. 40 of 26 January 2015.
- ¹⁸ The launch of the process was attended by the Minister of Foreign Affairs, the Under-Secretary of Economy, the presidents of CPC and SOFOFA at the event, a Commissioner of the Inter-American Commission on Human Rights, as well as the Regional Representative of the United Nations High Commissioner for Human Rights and other national and international guests.
- ¹⁹ The Working Group is coordinated by the Business and Human Rights Unit of the Ministry of Foreign Affairs and is composed of representatives of eleven Ministries (see section "Ministries that participated in the elaboration of this Plan, page 4). The Ministry of Foreign Affairs includes a representative of the Human Rights Unit, two representatives of the Directorate of International Economic Relations and the National Contact Point of the OECD Guidelines for Multinational Enterprises.
- ²⁰ Within the framework of cooperation between the Danish Institute of Human Rights and the Ministry of Foreign Affairs for the development of the Plan, the Institute made available to the Working Group a methodology and funds to develop a baseline study on the situation of Human rights and business in Chile, which was prepared by the Human Rights Centre of the Diego Portales University. Baseline study available here:
<http://www.derechoshumanos.udp.cl/derechoshumanos/index.php/quienes-somos?layout=edit&id=157>.
- ²¹ Human Rights and Business Country-Guide available here: <http://hrbcountryguide.org/wp-content/uploads/2016/11/Chile-Country-Guide-FINAL-181116.pdf>.
- ²² Carlos Cordero of Sustentia Innovation and Birgitte Feiring of the Danish Institute of Human Rights.
- ²³ Guide available here:
http://www.derechoshumanosyempresas.gob.cl/ddhh/site/artic/20150422/asocfile/20150422104019/guia_empresas_y_ddhh_final.pdf
- ²⁴ This Plan constitutes a legal mandate of the Under-Secretariat that arises from Law No. 20,885, which installs at Government level this institution dedicated to the promotion and protection of human rights through the coordination of policies, plans and programmes.
- ²⁵ Reports by the Special Representative of the United Nations Secretary-General for Human Rights and Business, reports by the United Nations Working Group on Human and Business Rights available here:
<http://www.ohchr.org/EN/Issues/Business/Pages/Reports.aspx>.
Reports of the Inter-American Commission on Human Rights, among others.
- ²⁶ The methodology of the Country Guide on Business and Human Rights, designed by the Danish Institute of Human Rights, brings together various issues in which business enterprises can cause adverse impacts, based on internationally recognized human rights. Country Guide website, available here:
<http://hrbcountryguide.org/>.
- ²⁷ Baseline study on Business and Human Rights of the UDP Human Rights Centre, INDH Reports, Country Guide of Chile prepared by the INDH, INDH map of social and environmental conflicts, recommendations to Chile of treaty bodies, reports on citizen dialogues, among others.
- ²⁸ The Guiding Principles point out that in their part, *"States should exercise adequate oversight in order to meet their international human rights obligations when they contract with, or legislate for, business enterprises to provide services that may impact upon the enjoyment of human right"*. In addition, States *"should promote the respect of human rights by companies with which they carry out commercial transactions"*.
- ²⁹ For vertical coherence, the state must have policies, laws and processes to implement international human rights obligations. In order to achieve horizontal coherence, it is necessary to train the various State agencies involved in business to be informed about the State's human rights obligations and to develop compatible initiatives and in line with them.
- ³⁰ Transforming our world: Agenda 2030 for Sustainable Development, A / RES / 70/1 of October 21, 2015,

paragraph 67.

³¹ In 2017 these programmes will be carried out in the United Kingdom, the Netherlands and Denmark.

³² The Under-Secretariat for Human Rights of the Ministry of Justice and Human Rights, in collaboration with the Institute of Public Policies and Human Rights of Mercosur (IPPDH), will make available in 2017 a Guide on the Human Rights Approach to Public Policies in Chile, aimed at facilitating the understanding and incorporation of this approach by public officials.

³³ In the framework of the construction of the 2050 long-term energy policy, this chapter on Indigenous Relevance was formulated through a participatory process with indigenous representatives in accordance with Convention No. 169 of the International Labour Organisation, specifically as regards participation in the formulation, implementation and evaluation of national and regional development plans and programs that may directly affect them - as provided in Article 7, paragraph 1, of the said Convention. The process included local, macro-zone and national meetings with indigenous peoples' institutions. The final document has been reviewed by CONADI National Council through its Energy Commission and is expected to be published in April 2017.

³⁴ This coordination strategy is directly related with two objectives of the strengthen strategy of the "Subsistema Seguridades y Oportunidades": Improve management models of the social protection policies; and develop spaces of territorial and intersectional articulation.

³⁵ This policy has been developed through a participatory process in which over 600 people participated in 12 community workshops in six regions of the country, a workshop with consultants, one with unions and one with NGOs, and four sessions a national table formed by more than 50 representatives of civil society, NGOs, consultants, business enterprises, associations, municipalities, academia and public services. Finally, the document was submitted to a public consultation process.

³⁶ The *Cuarto Adjunto* is understood as an open space for information and discussion with civil society and the private sector. At these meetings, stakeholders in each of the trade negotiation disciplines exchanged information, views and technical analysis with stakeholders in each of the areas covered (e.g. environmental, labour, intellectual property, market access, etc).

³⁷ Principle 10 of the 1992 Rio Declaration: *"Environmental issues are best handled with participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided."*

³⁸ The Integrity Pact (IP) is a tool proposed by Transparency International against corruption aimed at the bidding companies, with the purpose of reducing corruption and waste in procurement for the public sector. Reducing corruption in procurement enables governments to make more efficient use of taxpayers' money and limit the pernicious consequences of corruption. In the Chilean case, the integrity pact consists of a clause, within the bidding rules, which establishes the behavioural framework of the State suppliers, collecting a series of commitments to which the bidders and suppliers adjudicated are subject during the validity of a specific framework agreement or tender. Through this clause, suppliers undertake, among other matters, to act with transparency, probity and veracity in the information and background presented in a given proposal. Failure to comply with any of the hypotheses regulated in the aforementioned Covenant implies the sanction of early termination of the framework agreement.

³⁹ In June 2014, the Human Rights Council adopted resolution 26/9 *"Elaboration of an international legally binding instrument on transnational corporations and other business enterprises with respect to human rights."* This resolution defined that the first two sessions would be devoted to conducting constructive deliberations on the content, scope, nature and form of the international instrument. The report of the first session is available here: A / HRC / 31/50. The second session was held in October 2016 and the third session is scheduled for October 2017. More information on the treaty process available here: <http://www.ohchr.org/EN/HRBodies/HRC/WGTransCorp/Pages/IGWGOntNC.aspx>.

⁴⁰ In December 2016, CODELCO's Board of Directors approved an update of the Corporation's Corporate Sustainability Policy, which assumes the critical challenges identified in the Master Plan to enable the organisation's economic activity in its social and environmental environment. This Policy applies to the whole company and is composed of six fundamental strands: Consolidate a preventive culture; Take care of the environment, Establish relationships of trust; Develop the best business case, Lead the organization from diversity; Innovate to create future. The description of strand 4. "Developing the best business case": Transforming Coelho's mineral resources into wealth for Chile through a comprehensive plan that materialises the best business case, incorporates the systematic management of strategic risks and ensures a culture of compliance with commitments and standards applicable to its activity, with the proper follow-up of its corporate governance, with transparency and in accordance with the UN Guiding Principles on Business and Human Rights. The recognition of the Guiding Principles in CODELCO's Sustainability Policy is a high level political commitment of this state company with respect for human rights.

⁴¹ The SEP is a Committee created by the Development Promotion Corporation –CORFO- as a technical advisory agency of the State, in relation to the evaluation of the management and corporate governance of companies in the state sector, that relate to the Government through of the various ministries and whenever expressly required to do so. The SEP Companies are: Arica Port Company, Iquique Port Company, Antofagasta Port Company, Coquimbo Port Company, Valparaíso Port Company, San Antonio Port Company, Talcahuano Port Company - San Vicente, Puerto Montt Port Company, Chacabuco Port Company, Austral Port Company, Casa Moneda S.A., Correos Chile, Cotrisa S.A., Econssa S.A., Enacar S.A., Lake Peñuelas S.A., Polla S.A., Sacor SpA, Sasipa SpA, Zofri S.A., Company of State Railways, Metro S.A.

⁴² John Ruggie at the opening of the 5th Annual Forum on Human Rights and Business, Geneva, Switzerland, November 2016, available here:
<https://www.shiftproject.org/resources/viewpoints/globalization-sustainable-development-goals-business-respect-human-rights/>

⁴³ The DRC is a real right that is levied on a real estate and that has as its object to conserve the environmental heritage. In this context, the conservation of environmental heritage can affect the habitat of human groups interested in their conservation according to their practices and traditional knowledge.

⁴⁴ To be able to fulfil this role, the State must ensure that it does not raise barriers that prevent the bringing of legitimate cases before the courts. It should therefore ensure that rights holders are aware of existing mechanisms, particularly at-risk populations, including, for example, indigenous peoples, migrants and persons with disabilities. In order to fulfil its role as the primary guarantor of access to reparation in the context of that Plan, the courts must have adequate knowledge of human rights in general and in the business context in particular.

⁴⁵ <http://decs.pjud.cl/>.

⁴⁶ a) Level of seriousness of the facts denounced: It corresponds to the degree of affectation to the health of the people and/or to the environment verified or potentially generated with reason or direct cause of the facts denounced.

b) Public concussion: Corresponds to the social context associated with the complaint and with the effects of the events described in the community.

In a purely exemplary way, it will be considered that those criteria apply when the following circumstances are present: i) presumption of serious affectation or significant risk on the health of the population; (ii) presumption of damage to components of the environment; iii) complaints with high public connotation.

⁴⁷ The symmetry fund is a proposal to be developed in the context of the local sustainable and associative development policy, linked to energy projects. It establishes that the fund will be promoted in the public sector. This requires designing it in conjunction with other institutional mechanisms such as the registration of advisers, and implementing it with other public institutions. The financing channels will be defined in the design process mentioned above.