

# PROMOTING RESPONSIBLE BUSINESS CONDUCT IN TRADE AND INVESTMENT

## Latin America and the Caribbean

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This paper provides a regional analysis of how governments in Latin America and the Caribbean (LAC) leverage trade and investment policies and agreements to promote responsible business conduct (RBC). It builds on a mapping of over 450 trade and investment agreements, takes stock of relevant policies and practices in nine LAC countries, and examines the role National Contact Points for Responsible Business Conduct (NCPs) play in this regard. The paper identifies key trends, challenges and opportunities and sets out policy considerations to enhance the uptake of RBC through trade and investment with the support of LAC NCPs.

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# Executive summary

**Governments have an essential part to play in promoting sustainable and responsible business practices.** Through government action, they can create an enabling environment to drive, support, and promote such practices. Trade and investment policies and agreements are a key component of this enabling environment. Not only do they serve to raise-awareness and build capacity on responsible business conduct (RBC) among companies engaged in trade and investment, they also contribute to the development, strengthening, and implementation of legal and policy frameworks in key policy areas. As such, they constitute a lever to influence businesses' conduct so that they enhance their contribution to sustainable development and address potential adverse impacts on people, planet, and society.

**In Latin America and the Caribbean (LAC), governments are gradually using trade and investment policies and agreements to encourage sustainable and responsible business practices.** This evolution has been driven by the global demand for sustainability and the acknowledgment that government action is needed to address sustainability-related challenges linked to business activity. It also echoes the expectations from LAC countries' main trade and investment partners that companies adopt responsible business practices. The United States and the European Union, for instance, have been developing and adopting a growing body of legislation and regulations that require companies to observe RBC principles and standards in their operations and supply chains. As a result, more and more export markets and investors are subject to these requirements.

**Trade and investment promotion and facilitation policies in LAC are increasingly geared towards sustainability and RBC to enhance exporters' access to foreign markets and attract responsible and sustainable investment.** Over the last years, LAC governments have sought to promote sustainable and responsible business practices through their financial and non-financial support to exporters and investors. However, progress varies across countries and depending on the type of support. In general, governments in the region tend to resort more to trade promotion than to investment promotion to encourage RBC, and the different types of trade support are not equally used for that purpose. Whereas the export credit agencies established by Brazil, Colombia and Mexico incorporate RBC principles and standards in their policies, the financial support provided by the rest of LAC countries to exporters is only occasionally used to promote sustainability more broadly. By contrast, most trade promotion agencies (TPAs) in LAC seek to advance RBC through their non-financial support to exporters. Several of them have developed support programmes that incorporate RBC considerations. Others integrate these considerations in their requirements for country brand use. Overall, LAC TPAs are increasingly looking to raise exporters' awareness about RBC through their documentation. Nonetheless, other services, such as support to participate in trade missions and international fairs, could be leveraged to promote RBC, including by linking these services to exporters' commitment that they observe RBC principles and standards. As to investment promotion agencies (IPAs), in general, they have made timid efforts to use their services to target and attract sustainable and responsible investments in the region. A few LAC IPAs include references to RBC in their documentation and take into account investors' observance of RBC principles and standards when granting access to their services.

**Trade and investment agreements are also progressively seen by LAC governments as policy tools that can not only boost trade and investment flows, but also do so in a sustainable and responsible way.** Since the inclusion of the first provisions on environmental issues in trade agreements in the mid-1990s, the number of provisions reflecting the signatories' commitments in key policy areas for RBC (human rights, labour rights, anticorruption, etc.) has increased steadily. Out of the over 450 agreements analysed for the present report, more than 70% include such provisions. In 2023, 100% of the agreements concluded by LAC countries during the year integrated this kind of provisions, with some dedicating full chapters to the protection of the environment, the promotion of labour rights, or the fight against corruption. Similarly, the inclusion of another type of clauses aimed at encouraging the adoption of responsible practices by companies has also risen progressively since their first appearance in the early 2000s. Nearly 14% of all the agreements concluded by LAC countries to date contain these specific RBC clauses. In 2023, 60% of the agreements signed during the year included such a clause. In fact, the trade and investment agreements concluded by LAC countries include some very detailed RBC clauses, with some even specifically encouraging companies to conduct due diligence. These provisions and clauses contribute to promote and enable RBC in the region, not only by “speaking to businesses” and influencing their conduct, but also by strengthening relevant legal and policy frameworks, and enhancing intergovernmental cooperation on RBC. However, their effects on the promotion of RBC is still limited by the fact that a number of them are succinct and do not clearly pinpoint to the RBC principles and standards that companies should observe.

**LAC governments could further use their trade and investment policies and agreements as a lever to encourage sustainable and responsible business practices, with the enhanced support of their National Contact Points for Responsible Business Conduct (NCPs).** The NCPs of the region have made initial efforts to play a role in the promotion of RBC through trade and investment. Building on their institutional arrangements, most of them have sought to strengthen policy coherence between RBC, trade, and investment. They have started to engage, cooperate, and share information with trade and investment officials and, for some of them, to participate in trade and investment policymaking and negotiations, or to support the enforcement of trade and investment agreements. Their ability to further advance RBC through trade and investment is, however, hindered by different challenges. This includes insufficient financial and human resources, lack of political support, weak intra-government coordination, as well as insufficient awareness of RBC and technical capacity among relevant government entities. LAC governments should aim to address these challenges and enable their NCPs to play a greater role in the promotion of policy coherence for RBC, through different types of action including awareness-raising, cooperation and coordination, consultation and information sharing, as well as support to implementation.

# Introduction

Over the last decade, the expectation that businesses produce and supply goods and services responsibly has grown significantly. The concept of ‘Responsible Business Conduct’ (RBC) – which entails that businesses contribute to sustainable development whilst addressing the adverse impacts on people, planet and society that may be associated with their operations, products and services – has gained increased attention. There is nowadays a wide recognition that businesses – regardless of their size, sector, operational context, ownership, and structure – should observe internationally recognised RBC principles and standards, such as the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (the MNE Guidelines). The MNE Guidelines are the most comprehensive set of recommendations jointly addressed by governments to businesses on a wide array of areas of potential business responsibility, such as human rights, labour rights, the environment, or corruption. They notably recommend that businesses undertake risk-based due diligence to identify, prevent, mitigate and account for how they address actual and potential adverse impacts on the matters they cover.

This growing expectation that businesses act responsibly has been accompanied by an increased acknowledgement that governments have a key role to play in promoting and enabling RBC. Governments adhering to the MNE Guidelines have an international legal obligation to establish a National Contact Point for Responsible Business Conduct (NCP) to promote awareness and uptake of their recommendations and contribute to the resolution of issues that arise in relation to their implementation as a non-judicial grievance mechanism. However, beyond the establishment of NCPs, governments have an essential part to play in creating an enabling environment to drive, support and promote responsible business practices. The Declaration on Promoting and Enabling Responsible Business Conduct in the Global Economy adopted by the Ministers and Representatives of 50 countries and the European Union in the framework of the 2023 OECD Ministerial Meeting on RBC also emphasises the importance that governments create an enabling policy environment for responsible business practices.

Several other OECD legal instruments acknowledge the role that governments play vis-à-vis RBC. In the investment field, the Chapter on “Policies for enabling RBC” (Chapter 7) of the OECD Policy Framework for Investment (PFI) recognises that governments have a role in providing an enabling environment for RBC. This role is the object of the OECD Recommendation of the Council on the Role of Government in Promoting Responsible Business Conduct (the OECD Recommendation on the Role of Government in Promoting RBC) adopted in 2022. The Recommendation lays out a single comprehensive set of principles and policy recommendations to assist governments in their efforts to design and implement policies that enable and promote RBC, bringing together guidance on government policies and policy coherence for RBC from existing OECD standards on RBC or RBC-related policy areas.<sup>1</sup>

The United Nations Guiding Principles on Business and Human Rights (UN Guiding Principles on Business and Human Rights) – the other international RBC instrument along with the MNE Guidelines and the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy of the International Labour Organization (ILO) – also recognise governments’ role in the promotion of responsible business practices and the construction of an enabling environment for RBC. The first pillar of the UN Guiding Principles on Business and Human Rights clearly affirms the States’ duty to protect against human

rights abuse within their territory and/or jurisdiction by third parties, including businesses. It lays out a series of guiding principles for governments on actions to be taken to promote and enable the respect of human rights by businesses, notably through policy areas that contribute to shape business conduct.<sup>2</sup>

Trade and investment are among these policy areas, as the linkages with RBC are numerous and responsible trade and investment are key drivers of sustainable development. The MNE Guidelines are in fact intended to encourage responsible trade and investment. They also seek to “multiply the benefits of trade and investment [...] that are needed for societies to achieve sustainable development outcomes, including the creation of more and better jobs, skills development, provision of products and services that improve living standards, and access to finance and technology needed for the digital and green transitions” (OECD, 2023, p. 10<sub>[1]</sub>).<sup>3</sup>

These considerations are particularly relevant for Latin America and the Caribbean (LAC) given the heavy reliance on trade and investment for growth and development of countries in the region. From 2011 to 2021, the share of trade as a percentage of GDP in LAC increased from 46% to 54% (Our World In Data, n.d.<sub>[2]</sub>). Following a similar trend, the flows of foreign direct investment (FDI) to the region have proven resilient, growing since 2020 to reach a record high of USD 224 billion in 2022 (ECLAC, 2023, p. 25<sub>[3]</sub>). At the same time, LAC’s main trade and investment partners are increasingly expecting businesses to adopt responsible practices. The United States and the European Union, for instance, have been developing and adopting a growing body of legislation and regulations that require companies to observe RBC principles and standards in their operations and supply chains (OECD, 2024<sub>[4]</sub>; State of California, 2010<sub>[5]</sub>; Government of the United States, 2021<sub>[6]</sub>; European Union, 2023<sub>[7]</sub>; European Union, 2024<sub>[8]</sub>). Promoting RBC can therefore make a positive contribution to the region’s competitiveness in global value chains (GVCs) and its attractiveness for foreign investment (ECLAC, 2022<sub>[4]</sub>; ECLAC, 2023<sub>[3]</sub>).

It is in this context that the OECD Centre for Responsible Business Conduct developed the present report as part of the transitional phase of the Project “Promoting Responsible Business Conduct in Latin America and the Caribbean” (RBCLAC Project).<sup>4</sup> The report aims to analyse how governments in LAC are using trade and investment policies and agreements as a means to encourage responsible business practices. It also seeks to analyse how NCPs in the region play a role in this regard in light of their ability to promote policy coherence for RBC underlined in the MNE Guidelines and the OECD Recommendation on the Role of Government in Promoting RBC. The report focuses on trade and investment promotion and facilitation policies, as well as trade and investment agreements.<sup>5</sup> It covers the nine countries that are part of the RBCLAC Project, namely Argentina, Brazil, Chile, Colombia, Costa Rica, Ecuador, Mexico, Panama, and Peru, as well as the NCPs that have been established by seven of these countries.

The report is based on the information contained in the five OECD RBC Policy Reviews published for Brazil, Costa Rica, Ecuador, Mexico and Peru under the first phase of the RBCLAC Project, as well as additional desk-based research carried out by the OECD Secretariat on the trade and investment policies and agreements of the other four countries covered by the Project, i.e. Argentina, Chile, Colombia, and Panama.<sup>6</sup> It has also been informed by the inputs and points of view shared by LAC trade and investment officials and NCPs during various regional consultations organised in the course of its elaboration. In July 2023, the Regional Network of LAC NCPs met to discuss the preparation of the report and share information and experiences on their engagement with trade and investment officials, as well as on their involvement in trade and investment policymaking and negotiations. At this occasion, the LAC NCPs also responded to a survey on the topic of RBC in trade and investment, the results of which are reflected in this report. Additionally, in November 2023, a joint meeting of the Regional Network of LAC NCPs and the OECD LAC Investment Initiative, which gathers investment officials from the region, was organised to present a preliminary draft of the report, promote exchanges among officials from the two policy communities, and collect feedback on the content of the report. A similar event was organised between LAC NCPs and trade officials of the region in February 2024 prior to the finalisation of the report.



The report is structured as follows: it first explains how trade and investment policies and agreements can be used, and have been used, by governments globally as a lever to encourage RBC, through the insertion of considerations related to the areas covered by the MNE Guidelines and relevant to promote RBC (hereinafter called RBC considerations) in such policies and agreements (**Section 1**). On this basis, it analyses how, and the extent to which, RBC considerations have been included in the trade and investment promotion and facilitation policies of the nine LAC countries covered by the RBCLAC Project (**Section 2**), as well as in their trade and investment agreements (**Section 3**). The report then focuses on the role that NCPs in general can play in the promotion of policy coherence for RBC, before examining how NCPs in the LAC region have been involved so far in trade and investment policymaking and negotiations and have contributed to the inclusion of RBC considerations in trade and investment policies and agreements (**Section 4**). Finally, it lays out policy considerations around the role that LAC NCPs could play in furthering the inclusion and implementation of RBC considerations in trade and investment policies and agreements in the future (**Section 5**).

# 1 Trade and investment policies and agreements as a lever to encourage responsible business conduct

Governments have an important role to play in promoting and enabling RBC. In addition to putting in place, implementing, and enforcing appropriate legal and regulatory frameworks in the areas covered by the MNE Guidelines, they can encourage RBC through policy areas that influence businesses' conduct. Trade and investment policies and agreements are a key component of an enabling environment for responsible business practices. They can not only contribute to enable RBC by reinforcing legal, regulatory and policy frameworks in relevant areas, but they also can be used to directly promote RBC with businesses and shape their conduct.

## 1.1. Promoting responsible business conduct through trade and investment promotion and facilitation policies

Trade and investment promotion and facilitation is a central part of trade and investment policies governments can use to encourage RBC. The integration of RBC considerations in these policies can contribute to incentivise responsible business practices, both from exporting companies and investors.

### 1.1.1. Trade promotion policies

As part of their trade promotion policies, governments offer a wide array of support and services to businesses. These different types of support and services constitute avenues to promote access to information on RBC and incentivise exporters to observe RBC principles and standards (OECD, 2018, pp. 55-56<sup>[5]</sup>). This is the case of the financial support provided to national exporters competing in international markets through Export Credit Agencies (ECAs). It is also true of the non-financial support to trade and exports. Trade missions, which allow representatives of exporting companies to travel overseas with government officials to promote their businesses, but also capacity building activities, or the access to relevant information and networks granted through embassies to enhance export opportunities, are all means that can be used to promote RBC (OECD, 2018, pp. 55-56<sup>[5]</sup>).

The OECD Recommendation on the Role of Government in Promoting RBC contains several guiding principles regarding the use of trade promotion policies to encourage RBC. It notably recommends that governments support the implementation of RBC standards by promoting awareness of RBC among parties involved in applications for officially supported export credits.<sup>7</sup> This is in line with the OECD Recommendation of the Council on Common Approaches for Officially Supported Export Credits and Environmental and Social Due Diligence (the OECD "Common Approaches"), which encourages governments to promote the MNE Guidelines via their ECAs and consider the outcomes of NCP cases when undertaking project reviews (OECD, 2016<sup>[6]</sup>). In a similar vein, the OECD Recommendation on the Role of Government in Promoting RBC also recommends that governments, when reviewing eligibility for

government support and services (such as trade advocacy and economic diplomacy), take into account the good faith engagement of companies in the context of NCP specific instances.<sup>8</sup>

Over recent years, several adherent countries to the OECD Declaration on International Investment and Multinational Enterprises and the MNE Guidelines (adherent countries) have sought to enhance policy coherence for RBC by using trade promotion policies as a lever to promote RBC. In 2023, 53% of NCPs (i.e. 27 out of 51) reported to the OECD Secretariat promoting the MNE Guidelines with trade and investment promotion agencies (OECD, Forthcoming<sup>[7]</sup>). The year before, 26% (i.e. 13 NCPs out of 49) reported having informed officials responsible for trade missions of their relevant statements and reports. Going beyond information-sharing, some adherents have taken more specific measures to encourage the observance of RBC principles and standards among exporters through trade promotion (see Box 1).

### Box 1. Examples of government measures to promote RBC through trade promotion

#### Germany

Germany has taken several measures to promote the MNE Guidelines through both financial and non-financial support granted to exporters:

- The forms that exporters use to apply for financial support include references to the MNE Guidelines and emphasise that the government expects German companies operating internationally to observe them. Furthermore, if a company has been involved in a specific instance before the German NCP, its behaviour and cooperation during the handling of the case will be considered when deciding whether to grant it financial support for exports. For this purpose, the German NCP collaborates with the government entities responsible for export promotion and regularly provides them with information on the specific instances it deals with.
- Regarding non-financial support, the exporters' registration form to participate in high-level trade missions also references the MNE Guidelines and reaffirms the government's expectation that German companies operating at the international level act responsibly.

#### The Netherlands

The Netherlands requires that exporters seeking financial or non-financial support from the government demonstrate their observance of the MNE Guidelines. The website of the one-stop-shop for local or foreign businesses looking to do business with the Netherlands sets the eligibility criteria and specifies that exporting companies can show that they observe the MNE Guidelines by:

- Obtaining a certification, such as a quality label;
- Providing a performance comparison demonstrating the company's efforts in the field of corporate social responsibility (CSR);<sup>1</sup>
- Issuing a statement in which the company outlines its CSR commitments;
- Presenting a sustainability report detailing the company's CSR-related activities;
- Submitting documentation on the company's CSR-related activities.

Note:

1. On the relationship between RBC and CSR, see Annex A, Box A.1.

Sources: OECD (2018<sup>[8]</sup>), OECD Guidelines for Multinational Enterprises National Contact Point Peer Reviews: Germany, <https://mneguidelines.oecd.org/Germany-NCP-Peer-Review-2018.pdf>; Government of the Netherlands (2020<sup>[9]</sup>), Website: Corporate social responsibility (CSR), <https://business.gov.nl/regulation/corporate-social-responsibility/>.

### 1.1.2. Investment promotion and facilitation policies

Governments also grant support to investors through promotion and facilitation policies, which respectively aim to market a country as an investment destination and make it easier for investors to establish, operate, or expand their investments (OECD, 2018, p. 3<sub>[10]</sub>). As with exporters, the numerous services offered to investors can be used as conduits to encourage the adoption of responsible business practices and promote sustainable investments (OECD, 2015, p. 18<sub>[11]</sub>). The inclusion of RBC considerations in the different image-building and investment generation activities carried out for investment promotion purposes can help build a country's positive image and attract responsible investors towards sustainable investment opportunities (OECD, 2015, p. 39<sub>[11]</sub>; OECD, 2018, p. 3<sub>[10]</sub>).<sup>9</sup> Similarly for investment facilitation, all the investor servicing and aftercare activities aimed at reducing the number of obstacles faced by investors can be used to promote RBC (OECD, 2015, p. 39<sub>[11]</sub>; OECD, 2018, p. 3<sub>[10]</sub>).<sup>10</sup>

The PFI recognises that RBC is central to a good investment climate and should play a part in investment policies to ensure that investors act responsibly (OECD, 2015, pp. 18, 75<sub>[11]</sub>). It further indicates that “an investment climate that does not include respect for certain rules of responsible business conduct [...] risks being shunned by international investors and by foreign customers” (OECD, 2015, p. 18<sub>[11]</sub>). The OECD Recommendation on the Role of Government in Promoting RBC also advises that governments encourage RBC through investment policies, with the expectation that businesses under the scope of these policies implement RBC standards.<sup>11</sup> Moreover, it recommends in broader terms applicable to investment promotion and facilitation, that governments support the effective implementation of RBC standards through the provision of reliable information, tools, and incentives, including, where feasible, aligning economic benefits and incentives for businesses with the implementation of RBC standards.<sup>12</sup>

In the last years, various adherent countries have resorted to their investment promotion and facilitation policies to encourage the adoption of responsible business practices and promote policy coherence for RBC. For this purpose, a number of investment promotion agencies (IPAs) have been given the mandate, in addition to attracting FDI, to promote RBC. Even when they do not have such a mandate, some IPAs have used their services to encourage the observance of RBC principles and standards, as is the case of the Swedish IPA (see Box 2). Others IPAs have reported taking action when an assisted investor does not observe these principles and standards (Volpe Martincus and Sztajerowska, 2019, pp. 50-51, 108-109<sub>[12]</sub>). Increased information sharing and co-operation between officials in charge of investment matters and NCPs have supported these actions. In 2023, 43% of NCPs (i.e. 22 out of 51) reported to the OECD Secretariat having shared statements, data and other insights with officials responsible for trade and investment support. The year before, 45% (i.e. 22 NCPs out of 49) reported having promoted the MNE Guidelines with IPAs and 14% (i.e. seven NCPs) indicated having informed the officials responsible for investment incentives of their relevant statements and reports.

#### Box 2. Example of government measures to promote RBC through investment promotion: the case of Business Sweden

Business Sweden – the Swedish trade and investment promotion agency – uses its services to investors as a lever to promote RBC principles and standards. It notably includes references to RBC in the documentation provided to investors. Additionally, it expressly requires in its general conditions for participation in trade and investment activities that companies strive to observe the MNE Guidelines:

*“Business Sweden actively supports sustainable business development and considers it important from a sustainability as well as business perspective to respect human rights, to offer fair terms for labour, to protect the environment and to work against corruption.”*



*The Participant Company taking part in the Activity undertake to always follow Swedish laws, the laws of the country of visit and shall as a minimum requirement, also in markets where national legislation does not reach international standards, strive to adhere to the guidelines of UN Global Compact, the OECD guidelines for multinational companies and the UN Guiding Principles on Business and Human rights, in line with Agenda 2030.*

*Business Sweden will, when applicable, provide information on sustainable business as part of the Activity, in order to support the Participant Company to comply with their obligations under this provision.”*

Source: Business Sweden (n.d.<sup>[13]</sup>), General Conditions for Participation in Trade and Invest Activities, <https://www.business-sweden.com/general-conditions-activities/>.

## 1.2. Promoting responsible business conduct through trade and investment agreements

Trade and investment agreements are another important component of an enabling environment for RBC. They can be used by governments to encourage businesses to adopt responsible business practices, as recommended by the OECD Recommendation on the Role of Government in Promoting RBC. This can be done through the inclusion of RBC considerations in diverse kinds of provisions (OECD, 2022<sup>[14]</sup>).

The first kind are provisions that deal, directly or indirectly, with areas covered by the MNE Guidelines, such as the respect for human rights, the promotion of labour standards, the protection of the environment, or the fight against corruption, and which reflect the signatories' commitments in relation to these areas (hereinafter called sustainability provisions). The second kind are clauses through which the signatories commit to encourage businesses to observe internationally recognised RBC principles and standards (hereinafter called RBC clauses). These provisions and clauses can have various effects that contribute to enabling and promoting RBC.<sup>13</sup>

First, sustainability provisions have the potential to support and reinforce governments' legal, regulatory and policy frameworks in areas covered by the MNE Guidelines by buttressing the adoption, implementation and enforcement of domestic laws, regulations and policies in the human rights, labour, environmental or anti-corruption fields (Gaukrodger, 2021, pp. 10, 84, 86-94<sup>[15]</sup>; OECD, 2022, pp. 107-110, 171-173<sup>[16]</sup>). In this way, they contribute to the development and implementation of legal, regulatory and policy frameworks that enable RBC (OECD, 2022<sup>[14]</sup>). This is notably the case of provisions through which the signatories commit to incorporating and disseminating in their domestic legal frameworks internationally recognised principles and standards in these fields and/or to enforce related domestic laws and regulations. This is also the case of the provisions that seek to preserve the signatories' right to regulate in areas covered by the MNE Guidelines and which protect their policy space by allowing them to adopt new laws, regulations and policies aimed at pursuing public interest objectives without legal risks. Provisions that prohibit the signatories from lowering or weakening their laws and regulations in these same areas to attract investment also help prevent backsliding in these areas (Gaukrodger, 2021, pp. 84, 96-100<sup>[15]</sup>; OECD, 2022, pp. 107-110, 171-173<sup>[16]</sup>).

Second, RBC clauses can directly promote the observance of RBC principles and standards by “speaking to business” (Gaukrodger, 2021, pp. 84, 102-108<sup>[15]</sup>). These clauses communicate and clarify the governments' expectations that businesses adopt responsible business practices. They also often highlight the specific internationally recognised RBC principles and standards that the latter should observe, sometimes with specific references to the conduct of due diligence.

Finally, sustainability provisions can contribute to facilitate access to remedy for victims of business-related adverse impacts. By promoting regulatory cooperation and/or intergovernmental consultations on matters

arising in areas covered by the MNE Guidelines, they can lead to the resolution of RBC issues and contribute to remedy such impacts. Likewise, the possibility that governments may have under some investment agreements to bring actions against investors, when the conditions to bring such counterclaims under the applicable rules are met, constitute another avenue through which remedies can possibly be obtained in case of harm linked to investors' operations.

### Box 3. The integration of RBC clauses in African regional investment agreements

#### The Revised Investment Agreement for the COMESA Common Investment Area

The Revised Investment Agreement for the COMESA Common Investment Area (CCIA) contains a clause titled “business ethics and human rights”, which provides that investors and their investments shall observe the UN Guiding Principles on Business and Human Rights, in addition to respecting and protecting internationally proclaimed human rights, and eliminating all forms of forced and compulsory labour, among others. This clause further specifies, in relation to adverse human rights impacts, that, where it is necessary to prioritise, investors should first seek to prevent and mitigate those impacts that are most severe or where delayed response would make them irreparable.<sup>1</sup> The CCIA also contains a clause titled “corporate social responsibility” pursuant to which investors and their investments should inter alia act in accordance with fair business, marketing and advertising practices when dealing with consumers and should ensure the safety and quality of the goods and services they provide.<sup>2</sup>

#### The Investment Protocol of the AfCFTA

The draft Investment Protocol of the AfCFTA, presented during a meeting of the African Union in January 2023, also includes an RBC clause that is structured in three parts. On the one hand, the draft clause provides that investors and their investments shall endeavour to achieve the highest possible level of contribution to the sustainable development of the Host State and the local community, by adopting a high degree of socially responsible practices. On the other hand, the draft clause contains a series of non-binding corporate social responsibility (CSR) principles and standards that investors and their investments should strive to respect. Lastly, through this clause, States commit to encourage investors operating on their territory or subject to their jurisdiction to integrate in their internal policies internationally recognised CSR principles and standards.<sup>3</sup> In addition, the Protocol includes a clause stating that the signatories can introduce incentives to encourage investors' responsible business practices.<sup>4</sup>

Notes:

1. Revised Investment Agreement for the COMESA Common Investment Area, Article 29 “Business Ethics and Human Rights”.
2. Revised Investment Agreement for the COMESA Common Investment Area, Article 30 “Corporate Social Responsibility”.
3. Investment Protocol of the AfCFTA, Article 38 “Corporate Social Responsibility”.
4. Investment Protocol of the AfCFTA, Article 8 “Incentives for Sustainable Investments”.

Sources: (2018<sub>[21]</sub>), Revised Investment Agreement for the COMESA Common Investment Area, <https://www.comesa.int/wp-content/uploads/2020/10/English-Revised-Investment-agreement-for-the-CCIA-28.09.17-FINAL-after-Adoption-for-signing.pdf>; Bouwer, E. (2023<sub>[22]</sub>), Analysis: Investment Protocol to the African Continental Free Trade Area Agreement emphasises sustainable development, setting narrow standards of protection and introducing obligations on foreign investors, <https://www.iareporter.com/articles/analysis-investment-protocol-to-the-african-continental-free-trade-area-agreement-emphasises-sustainable-development-setting-narrow-standards-of-protection-and-introducing-obligations-on-foreign-inv/>.

In recent years, adherent countries have increasingly sought to integrate these kinds of provisions and clauses in their trade and investment agreements. Canada, for instance, as well as the EU, tend to systematically include such provisions in their new agreements (Government of Canada, 2021, p. 15<sup>[17]</sup>; European Commission, n.d.<sup>[18]</sup>; European Commission, 2022<sup>[19]</sup>; London School of Economics and Political Science, 2022<sup>[20]</sup>). This practice is also becoming more common beyond adherent countries. For example, the two recent African investment agreements concluded at the regional level – the Revised Investment Agreement for the Common Market for Eastern and Southern Africa (COMESA) Common Investment Area and the Investment Protocol of the African Continental Free Trade Area (AfCFTA) – both contain detailed RBC clauses that seek to promote responsible business practices among investors (see Box 3).

The inclusion of RBC clauses in trade and investment agreements is also happening at the multilateral level. The Investment Facilitation for Development Agreement (IFD Agreement) of the World Trade Organisation (WTO), the text of which was recently publicly released, includes a full section on sustainable investment (WTO, 2024<sup>[23]</sup>). In addition to a provision dealing with measures against corruption, this section contains an RBC clause that seeks to promote the observance of RBC principles and standards by investors (see Box 4).

#### Box 4. The inclusion of an RBC clause in the WTO's Investment Facilitation for Development Agreement

A number of adherent countries have sought to enhance policy coherence for RBC at the international level in the context of the negotiations of the Investment Facilitation for Development (IFD) Agreement at the WTO. The negotiations, launched in 2020 and concluded in July 2023, were coordinated by the Ambassadors of Chile and Korea. Their aim was to develop an agreement that would contribute to a stronger investment climate and promote international cooperation to facilitate foreign direct investment for sustainable development. The goal of the IFD Agreement is thus to help WTO members attract not only more, but also higher quality, investment that contributes to sustainable development.

In the context of these negotiations, several countries advocated for the integration of RBC considerations in the text of the IFD Agreement. This ultimately resulted in the insertion of an RBC clause in Section VI on sustainable investment, together with a provision dealing with measures against corruption. Through Article 37 of the IFD, the parties commit to encourage investors to observe internationally recognised RBC principles and standards, including to undertake meaningful engagement and dialogue with indigenous peoples and local communities. They also recognise the importance for investors to implement due diligence for RBC to identify and address adverse impacts in their operations, supply chains and other business relationships. The parties also commit to exchange best practices on RBC, notably on ways to facilitate the uptake by companies of responsible business practices and reporting.

The IFD Agreement is accompanied by an Investment Facilitation Self-Assessment Guide prepared with the support of international organisations, including the OECD. The Guide aims at helping WTO members and, particularly, developing and least developed countries, to self-assess their needs and priorities in relation to each provision of the Agreement, including the RBC clause, in order to facilitate their implementation. With this Guide, WTO members can identify implementation gaps in relation to RBC and determine their technical assistance and capacity-building needs.

Sources: WTO (2023<sup>[24]</sup>), Investment Facilitation for Development in the WTO, [https://www.wto.org/english/tratop\\_e/invfac\\_public\\_e/factsheet\\_ifd.pdf](https://www.wto.org/english/tratop_e/invfac_public_e/factsheet_ifd.pdf); WTO (2024<sup>[23]</sup>), Joint Ministerial Declaration on the Investment Facilitation for Development Agreement, <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:WT/MIN24/17.pdf&Open=True>.

## 2 State of play of the inclusion of responsible business conduct considerations in LAC countries' trade and investment promotion and facilitation policies

Driven by the growing global demand for sustainability and increasing expectations from their main trade and investment partners' that businesses adopt responsible practices, LAC countries have sought to encourage RBC among exporters and investors. Over recent years, they have undertaken action to use their trade and investment promotion and facilitation policies as a lever to promote sustainable and responsible business practices.

### 2.1. Responsible business conduct in trade promotion policies in LAC

RBC considerations can be integrated in trade promotion policies in several ways and at various levels, including overarching promotion plans or strategies and/or specific policies or initiatives to provide financial or non-financial support to exporters. In most LAC countries covered by the report, the integration of RBC considerations in overarching trade promotion strategies is still at an early stage – apart from Peru. Peru's National Strategic Export Plan for 2025 distinguishes itself by considering the development of a diversified, competitive, and sustainable export offer as its primary pillar (Government of Peru, 2015<sup>[25]</sup>). Under this pillar, two lines of action aim respectively at promoting corporate social responsibility (CSR) and sustainability, with programmes to instil sustainable management practices in exporting companies that cover economic, social, and environmental aspects (Government of Peru, 2015<sup>[25]</sup>).

Although LAC countries generally do not tend to directly integrate RBC considerations in their overall trade policies, some have identified trade as an area with the potential to encourage responsible business practices in overarching strategies related to RBC. For instance, one of the objectives of the Costa Rican National Policy on Social Responsibility for 2017-2030 (*Política Nacional de Responsabilidad Social 2017-2030*) is to promote the social responsibility of Costa Rican companies and products abroad (Government of Costa Rica, 2017<sup>[26]</sup>). Beyond this, LAC countries have made efforts to promote RBC through the financial and non-financial support provided to exporters.

#### 2.1.1. Responsible business conduct in financial trade support

Financial support for trade can be granted by ECAs or other government entities that provide financing. All of them can integrate RBC considerations in their services to promote responsible business practices and



prevent RBC-related risks in the projects they finance. In LAC, Brazil, Mexico and Colombia have established ECAs that provide financial support to exporters for specific projects. As these projects sometimes entail risks of corruption or adverse social and environmental impacts, these ECAs have integrated RBC principles and standards in their policies and practices and, in particular, in their risk management processes.

This is in line with the recommendations of the OECD legal instruments on export credits. The OECD Common Approaches encourage adherent countries, including Colombia and Mexico, to mitigate the risks of social and environmental adverse impacts, including by promoting the MNE Guidelines via their ECAs and taking into account the outcomes of NCPs' specific instances during project reviews (OECD, 2016<sup>[6]</sup>). In the same vein, the OECD Recommendation of the Council on Bribery and Officially Supported Export Credits recommends to adherent countries – which include Brazil, Colombia, Mexico and Peru – that they implement measures to deter bribery in the export transactions that they support (OECD, 2019<sup>[27]</sup>). On this basis, Brazil's, Colombia's, and Mexico's ECAs have put in place mechanisms aimed at identifying, assessing, and managing RBC-related risks linked to their export credit operations (see Box 5).

### Box 5. LAC Export Credit Agencies' risk management processes

#### Brazil

In Brazil, the entities involved in export credit support<sup>1</sup> follow the “Compliance Manual for Official Export Support” of the Anti-Corruption Working Group of the Export Finance and Guarantee Committee (*Comitê de Financiamento e Garantia das Exportações*). It details the due diligence process that must be undertaken to prevent and manage corruption-related risks prior to providing export credit finance or insurance. In both cases, the process includes the same main steps:

- The entity first verifies if the exporter is listed either on the Registry of Ineligible and Suspended Companies (*Cadastro de Empresas Inidôneas e Suspensas*) or on the National Registry of Punished Companies (*Cadastro Nacional das Empresas Punidas*), which include companies sanctioned for corruption. If this is the case, the request is automatically denied.
- The exporter then signs the Exporter's Declaration of Commitment (*Declaração de Compromisso do Exportador*), which refers expressly to the OECD Anti-Bribery Convention and the OECD Recommendation of the Council on Bribery and Officially Supported Export Credits.<sup>2</sup>
- The exporter also fills out a Compliance Form (*Formulário do Exportador*), used to verify whether there are any red flags regarding the company and/or the operation for which support is requested. Depending on its answers, it may have to complete other additional forms, such as a conflict-of-interest form (*Formulário sobre Conflito de Interesses*).

To prevent and manage social and environmental risks, Banco do Brasil and BNDES developed their own policies for official export credit financing through direct lending. Banco do Brasil applies the Equator Principles<sup>3</sup> and conducts socio-environmental compliance evaluations for high-risk projects. BNDES categorises projects over R\$10 million based on socio-environmental risks and requires an environmental and social due diligence for all projects (unless the environmental risk is minimal) before deciding whether it can provide financing.

#### Colombia

The Colombian Export Credit Agency (ECA) – Bancoldex – adopted an Environmental and Social Risk Management System (*Sistema de Gestión de Riesgos Ambientales y Sociales*, SARAS). This system was modernised in 2021 to align with international standards, such as the ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy, the Equator Principles, and the Environmental and Social Safeguards Framework of the Inter-American Bank of Development.

Bancoldex's SARAS is comprised of a set of policies and processes to identify, assess, mitigate, and monitor potential environmental and social risks linked to credit operations. This includes:

- a list of companies and activities excluded from funding due to environmental and social risks.
- the categorisation of projects by risk level, with the highest level corresponding to projects with significant risks of adverse social and environmental impacts (either multiple, irreversible or of unprecedented magnitude, or extending beyond the project and, thus, difficult to mitigate).
- a programme of ongoing improvement (*Programa de Mejora Continua*) to monitor the implementation and performance of the SARAS and make necessary adjustments.

In its 2021 Sustainability Report, Bancoldex listed as one its goals for 2022 to include climate risks in its SARAS. During that year, it worked on the design of an action plan to address the risks and opportunities that arise from climate change. In 2023, Bancoldex reported having developed a three-year roadmap to integrate climate variables into risk management processes and conducted initial analyses and measurements of greenhouse gas emissions within its portfolio.

## Mexico

Mexico's ECA – Bancomext – also established a SARAS and created an Environmental and Social Management Unit (*Unidad de Gestión Ambiental y Social*, UGAS). Its SARAS provides tools to identify, monitor, and manage potential environmental and social risks throughout the credit process, including:

- a list of activities excluded from funding, such as those on indigenous peoples' lands undertaken without their consent or those involving ozone-depleting substances.
- categorising each project based on its potential risk. If the risk is high and the financing is over USD 10 million, the UGAS requires an environmental and social due diligence study based on the Equator Principles, in addition to compliance with domestic social and environmental laws.

Bancomext has also put in place a due diligence process to prevent and mitigate corruption risks, both related to the credit beneficiary and third parties. Moreover, its agreements with debtors include anti-corruption clauses prohibiting any form of corruption during the duration of the credit.

Notes:

1. This includes the Undersecretariat for Foreign Investment of the Executive Secretariat of the Foreign Trade Chamber (*Subsecretaria de Inversiones Extranjeras da Secretaria-Executiva da Câmara de Comércio Exterior*) (CAMEX), Banco do Brasil, the Brazilian Development Bank (*Banco Nacional do Desenvolvimento*, BNDES), the Brazilian Guarantees and Fund Managements Agency (*Agência Brasileira Gestora de Fundos Garantidores e Garantias*, ABGF), as well as the National Treasury (*Secretaria do Tesouro Nacional*, STN).

2. The exporter declares that it has not and will not engage in any corrupt practices, that it will communicate any supervening fact that may compromise this statement, and that it is aware of the potential consequences should any illicit activity be found, including the interruption of the support, the obligation to reimburse the amounts received and not being able to obtain further support.

3. The Equator Principles are a framework adopted by financial institutions to identify, assess, and manage environmental and social risks.

Sources: Bancomext (2020<sup>[28]</sup>), Lista de exclusión, <https://www.bancomext.com/wp-content/uploads/2020/07/Anexo-9-LISTA-DE-EXCLUSIO%CC%81N-SARAS-formato-JUN2020-1.pdf?tknfv=678B286734ABCEFGHIJKLMNOPQRSD16B>; Bancomext (2020<sup>[29]</sup>), Gestión social y ambiental, <https://www.bancomext.com/conoce-bancomext/gestion-ambiental-y-social>; Bancomext (2020<sup>[30]</sup>), Lineamientos para el estudio de debida diligencia social y ambiental, <https://www.bancomext.com/wp-content/uploads/2020/07/ANEXO-13-LINEAMIENTOS-PARA-EL-ESTUDIO-DE-DEBIDA-DILIGENCIA-AMBIENTAL-Y-SOCIAL-JUN20201.pdf?tknfv=678B286734ABCEFGHIJKLMNOPQRSD16B>; Bancomext (2020<sup>[31]</sup>), Política de integridad, <https://www.bancomext.com/conoce-bancomext/quienes-somos/politica-de-integridad>; Government of Brazil (2018<sup>[32]</sup>), Manual de Procedimentos de Compliance para o Sistema de Apoio Oficial à Exportação, <https://www.gov.br/mdic/pt-br/assuntos/camex/financiamento-ao-comercio-exterior/conformidade-no-sce>; Banco do Brasil (2020<sup>[33]</sup>), Cases of socio-environmental risk mitigation, <https://apicatalog.mziq.com/filemanager/v2/d/5760dff3-15e1-4962-9e81-322a0b3d0bbd/44abc213-445d-78c9-9174-27ce04d62824?origin=2>; BNDES (n.d.<sup>[34]</sup>), Socio-environmental Policy, [https://www.bndes.gov.br/SiteBNDES/bndes/bndes\\_en/Institucional/Social\\_and\\_Environmental\\_Responsibility/socioenvironmental\\_policy/](https://www.bndes.gov.br/SiteBNDES/bndes/bndes_en/Institucional/Social_and_Environmental_Responsibility/socioenvironmental_policy/); Bancoldex (2022<sup>[35]</sup>), Sistema de Administración de Riesgos Ambientales y Sociales – SARAS, [https://www.bancoldex.com/sites/default/files/saras\\_pagina\\_web.pdf](https://www.bancoldex.com/sites/default/files/saras_pagina_web.pdf); Bancoldex (2021<sup>[36]</sup>), Informe de Sostenibilidad,

[https://www.bancoldex.com/sites/default/files/bancoldex\\_reporte\\_sostenibilidad\\_2021\\_3.pdf](https://www.bancoldex.com/sites/default/files/bancoldex_reporte_sostenibilidad_2021_3.pdf); Bancoldex (2023<sup>[37]</sup>), Reporte Anual 2022, [https://www.bancoldex.com/sites/default/files/bancoldex\\_reporte\\_anual\\_2022.pdf](https://www.bancoldex.com/sites/default/files/bancoldex_reporte_anual_2022.pdf); Bancoldex (2024<sup>[38]</sup>), Reporte de Sostenibilidad, [https://www.bancoldex.com/sites/default/files/informe\\_sostenibilidad\\_bancoldex\\_2023-3.pdf](https://www.bancoldex.com/sites/default/files/informe_sostenibilidad_bancoldex_2023-3.pdf).

The rest of LAC countries provide financial support to exporters through specific financing initiatives. A few of them have started using these activities to promote sustainability, with the goal of enhancing environmental management and mitigating the effects of climate change. The financing programmes developed by the Chilean and the Costa Rican trade promotion agencies are examples of initiatives that provide financial support to enhance exporters' appeal in international markets while also seeking to promote sustainability (see Box 6).

### Box 6. Promoting sustainability through trade promotion agencies' financing initiatives

#### Chile

ProChile has put in place several co-financing programmes for exporting projects to promote Chilean exports abroad (*ProChile Concursos*). One of them is for small and medium-sized enterprises (SMEs) in the agriculture and forestry sectors that seek to develop their exporting activities. While the programme does not explicitly mention RBC or reference the principles and standards in the field, sustainability is one of the evaluation criteria used to select projects and grant funding. ProChile assesses the integration of social, environmental, and economic goals in the applicant company's policies and actions through a "sustainability management test". This test, which is available online, is a free self-diagnosis tool meant to help companies determine their level of sustainability management and improve it based on personalised recommendations.

#### Costa Rica

PROCOMER's Green Growth Programme (*CreCIMIENTO Verde*), developed in partnership with the Costa Rica United States Foundation for Cooperation and the Inter-American Bank Development, provides financial assistance to selected SMEs (exporters or potential exporters) undergoing a green transformation in their production processes. Green transformation encompasses activities such as: innovations for energy efficiency, transitioning to renewable energy sources, reducing emissions and water usage, or developing comprehensive waste management strategies. The requirement to participate in the programme is to obtain the relevant permits for environmentally beneficial projects. It does not include any criteria related to RBC, nor does it serve as a platform for raising exporters' awareness of and knowledge about RBC principles and standards.<sup>1</sup>

Note:

1. Over 250 companies have benefited from the Green Growth programme, with 46% of them led by women, and 42% located in rural areas of Costa Rica. In 2020, PROCOMER received the "Best Initiative for Inclusive and Sustainable Trade" award from the International Trade Centre for this Programme.

Sources: Government of Chile (2023<sup>[39]</sup>), Resolución Exenta Nro. 02673/2023 aprueba bases de concurso para la postulación de proyectos empresariales y sectoriales de promoción de exportaciones silvoagropecuarias, [https://www.prochile.gob.cl/docs/default-source/herramientas/concursos/documentos-para-postular/silvoagropecuario-2024/bases-concurso-silvoagropecuario-2024.pdf?sfvrsn=b4681a2c\\_3](https://www.prochile.gob.cl/docs/default-source/herramientas/concursos/documentos-para-postular/silvoagropecuario-2024/bases-concurso-silvoagropecuario-2024.pdf?sfvrsn=b4681a2c_3); Government of Chile (n.d.<sup>[40]</sup>), Website: Test de Gestión Sostenible, <https://www.prochile.gob.cl/test-de-gestion-sostenible/>; PROCOMER (n.d.<sup>[41]</sup>), CreCIMIENTO Verde, <https://www.procomer.com/exportador/programas/crecimiento-verde/>.

Beyond these financing initiatives aimed at promoting sustainability in general, some LAC countries have integrated RBC considerations in their financing programmes for exporters. Peru, for instance, developed a financing programme to increase the competitiveness of micro, small and medium-sized enterprises (MSMEs) that encounter difficulties in their internationalisation process (Government of Peru, 2023<sup>[42]</sup>). If

a project is pre-approved to participate in the programme following an initial assessment of its economic viability, the evaluating committee takes into account, among other elements, whether it is socially and environmentally sustainable and if it promotes women empowerment and gender equality. If this is the case, it will grant additional points to the project's final rating (Government of Peru, 2023<sup>[43]</sup>).

LAC countries also often grant tax deductions and exemptions to exporters but in general without linking the obtention of these deductions or exemptions to RBC. For instance, exporters in the banana industry in Ecuador can be granted tax exemptions, but there are no requirements related to RBC, or more broadly sustainability, to obtain such exemptions, despite the sector being especially prone to RBC risks (Government of Ecuador, 2019<sup>[44]</sup>). The same is true of the 50% tax deduction on export credit insurance available for Ecuadorian exporters and of the Peruvian programme to cover the export credit insurance of SMEs to up to 50% of the credit (Government of Ecuador, 2019<sup>[44]</sup>; Government of Peru, 2016<sup>[45]</sup>). None of these financial incentives for exporters are used to promote RBC.

### **2.1.2. Responsible business conduct in non-financial trade support**

Non-financial support to trade is generally handled by trade promotion agencies (TPAs), which can be granted the specific mandate to promote RBC and/or can integrate RBC considerations in the services they provide to exporters. All LAC countries have a TPA responsible for providing non-financial support to exporters and promoting their products globally.<sup>14</sup> Some of these have a specific mandate to promote RBC among exporters or, more broadly, sustainability. This is the case of Brazil's, Chile's, Colombia's, Mexico's, and Peru's TPAs.

In accordance with the Colombian National Action Plan on Business and Human Rights for 2020-2022, ProColombia must take advantage of its export promotion programmes and activities to raise exporters' awareness about the importance of sustainable development and how human rights commitments by companies constitute a factor of competitiveness in GVCs (Government of Colombia, 2022<sup>[46]</sup>). Likewise, Peru's National Strategic Export Plan for 2025 tasks PROMPERÚ with promoting sustainability in the Peruvian export offer, notably by encouraging the adoption of CSR practices among exporters (see Box 7). Following a broader approach focused on sustainability in general, in Brazil, the promotion of sustainable development is listed as one of the goals of ApexBrasil and, in Chile, ProChile's mission is to boost competitiveness and the sustainable supply of exports (Government of Brazil, n.d.<sup>[47]</sup>; Government of Chile, 2023<sup>[48]</sup>).

Even when they do not have a specific mandate to promote RBC, TPAs can integrate RBC considerations in the wide array of non-financial services they provide to exporters. LAC TPAs have started doing so, but only through certain types of support (see Table 1). The support that consists in facilitating exporters' participation in international fairs or allowing them to be part of trade missions in general is not used to promote RBC. By contrast, the documentation released to help exporters access relevant information for their export projects, such as export guides, is often used by LAC TPAs to raise awareness about RBC.

A noteworthy example is ProChile's website, which has an entire section dedicated to the concepts of sustainability, sustainable trade, the Sustainable Development Goals (SDGs) and RBC. In relation to RBC, the website includes references and links to the MNE Guidelines and the related Due Diligence Guidance (Government of Chile, 2023<sup>[48]</sup>). In a similar approach focused on one of the areas covered by the MNE Guidelines, ApexBrasil has published guides to promote the adoption of compliance programmes by Brazilian companies operating abroad. These guides – titled “Brazilian Companies Abroad – Relationships with Foreign Public Officials” and “Brazilian Companies Abroad – Aiming at Integrity in the Business Environment” – expressly refer to the MNE Guidelines, as well as to the OECD Recommendation of the Council on Bribery and Officially Supported Export Credits, and highlight the importance of adopting compliance programmes to prevent bribery and corrupt practices (Government of Brazil, 2015<sup>[49]</sup>; Government of Brazil, 2019<sup>[50]</sup>).



**Table 1. Overview of the use of trade promotion as a lever to promote RBC in LAC**

Country / Trade Promotion Agency (TPA)	Mandate to promote sustainability and/or RBC	Promotion of RBC through services to exporters	Inclusion of references to RBC in documentation for exporters
Argentina – Investment and International Trade Promotion Agency (AAICI)	No	Yes	No
Brazil – ApexBrasil	Yes	Yes	Yes
Chile – ProChile	Yes	Yes	Yes
Colombia – ProColombia	Yes	Yes	Yes
Costa Rica – PROCOMER	No	Yes	No
Ecuador – Pro Ecuador <sup>15</sup>	No	Yes	No
Mexico – UIEG	Yes	No	Yes
Panama – PROPANAMA	No	No	No
Peru – PROMPERÚ	Yes	Yes	Yes

Source: compiled by the OECD Secretariat based on an analysis of the mandate, services, and documentation of the TPAs of the nine LAC countries part of the RBCLAC Project.

In addition, many LAC TPAs have developed technical assistance programmes and capacity-building activities for exporters that focus on sustainability and generally integrate RBC considerations. ApexBrasil, for instance, provides technical assistance to exporters to help them adopt sustainability practices with a view to increasing their competitiveness in global markets (Government of Brazil, 2023<sup>[51]</sup>). This includes, among others, generating sustainable business opportunities by bringing SMEs closer to the GVCs of large companies and providing guidance to certain sectors to help align practices with global demands for sustainability (Government of Brazil, n.d.<sup>[52]</sup>). Similarly, the companies that participate in ProColombia's internationalisation programme can also benefit from assistance to develop and implement social and environmental measures (Government of Colombia, 2022<sup>[53]</sup>). ProColombia has notably developed a strategy on how to incorporate sustainability in exporters' internal policies. This strategy, which encompasses capacity building activities on sustainability and the Global Reporting Initiative standards, entails identifying the company's actions and opportunities related to sustainability and helping it develop related internal policies (Government of Colombia, 2022<sup>[53]</sup>).

Other TPAs in the region provide support to exporters to help them obtain sustainability certifications, which are increasingly required to obtain access to certain foreign markets or can facilitate access to these markets. Finally, some TPAs have recently developed initiatives aimed at promoting women-led export companies (see Box 7).

### Box 7. Examples of LAC trade promotion agencies' services that integrate RBC considerations

Conscious of the growing importance of sustainability in global markets, over recent years, LAC's trade promotion agencies have designed support programmes for exporters that integrate RBC considerations. These programmes focus on related concepts such as corporate social responsibility (CSR) and fair and sustainable trade, as well as on women empowerment, and contribute to create an enabling environment for RBC.

Figure 1. Support programmes for exporters with RBC considerations

RBC/CSR	<p>✓ <b>PROCOLOMBIA</b></p> <p>"First Steps in CSR" programme, which provides SMEs with personalised guidance from specialised master degree's students to help them develop and implement sustainability action plans.</p>	<p>✓ <b>PROMPERÚ</b></p> <p>CSR programme comprised of: (i) awareness-raising workshops; (ii) a company diagnosis on CSR; (iii) the development of a CSR action plan; and (iv) the preparation of a sustainability report</p>
FAIR AND SUSTAINABLE TRADE	<p>✓ <b>ApexBrasil</b></p> <p>"Innovative and Sustainable Business in Global Value Chains" programme, which helps Brazilian SMEs with a sustainable approach in their internationalisation efforts by promoting sustainable products and services with high added value in foreign markets.</p> <p>✓ <b>ProChile and PROCOMER</b></p> <p>Trainings on how to obtain sustainability certifications to encourage companies to initiate and participate in voluntary sustainability certification schemes.</p>	<p>✓ <b>PROCOLOMBIA</b></p> <p>"Road to sustainable business change" programme, which helps companies undergoing an internationalisation process to develop, implement and promote actions focused on social and environmental sustainability.</p> <p>✓ <b>PRO ECUADOR</b></p> <p>"Exporters' route" programme which includes capacity-building on CSR and various types of sustainability trainings including: (i) on the importance of sustainability to access the European market and (ii) on fair and sustainable trade as a business model that benefits farmers, artisans and consumers.</p>
WOMEN EMPOWERMENT	<p>✓ <b>ApexBrasil</b></p> <p>"Women and International Business Program", which aims to support the participation of more women-led companies in international markets.</p> <p>✓ <b>ProChile</b></p> <p>"Woman Export" programme designed to support the development of women-led exporting companies, or those looking to enter the export market, by providing strategic export information and organising various support activities for these businesses.</p>	<p>✓ <b>PROCOLOMBIA</b></p> <p>"She Exports Africa" programme, which supports the internationalisation of companies owned or led by women and looking to enter the African market.</p> <p>✓ <b>PROCORDER</b></p> <p>"Impulsa" Programme which aims to increase the number of women-led companies in the export sector through training and access to financing.</p> <p>✓ <b>PROMPERÚ</b></p> <p>"She Exports" programme, which supports female entrepreneurs to thrive in the export sector, and focuses on enhancing management skills, increasing productivity and improving working conditions.</p>

Sources: Government of Colombia (2019<sup>[54]</sup>), Press release: Primeros pasos en responsabilidad social empresarial: comprometidos con las PYMES, <https://www.pactoglobal-colombia.org/news/primeros-pasos-en-responsabilidad-social-empresarial.html>; Government of Peru (n.d.<sup>[55]</sup>), Website: Cultura sostenible para exportadores, <https://exportemos.pe/asesoria-especializada/cultura-sostenible-para-exportadores#divsostenibles>; Government of Brazil (2023<sup>[51]</sup>), Website: Torne sua empresa sustentável para ser mais competitiva, <http://www.apexbrasil.com.br/torne-sua-empresa-sustentavel-para-ser-mais-competitiva>; Government of Colombia (2022<sup>[53]</sup>), Ruta de cambio sostenible empresarial, [https://rse.procolombia.co/sites/default/files/informes/Cartilla\\_ruta\\_cambio\\_sostenible.pdf](https://rse.procolombia.co/sites/default/files/informes/Cartilla_ruta_cambio_sostenible.pdf); Government of Chile (2023<sup>[48]</sup>), Website: ProChile y Sostenibilidad, <https://www.prochile.gob.cl/innovacion-y-competitividad/sostenibilidad/prochile-y-sostenibilidad>; PROCORDER (n.d.<sup>[56]</sup>), Website: R.E Responsabilidad y Estrategia S.A., <https://www.procomer.com/company/r-e-responsabilidad-y-estrategia-s-a/?lang=en>; Government of Ecuador (n.d.<sup>[57]</sup>), Website: ProEcuador eventos pasados, [https://www.proecuador.gob.ec/events/categoria/capacitaciones/lista/?tribe\\_paged=1&tribe\\_event\\_display=past&tribe-bar-search=sostenibilidad](https://www.proecuador.gob.ec/events/categoria/capacitaciones/lista/?tribe_paged=1&tribe_event_display=past&tribe-bar-search=sostenibilidad); Government of Brazil (2023<sup>[58]</sup>), Website: Mulheres en negocios internacionais, <https://apexbrasil.com.br/mulheresenegociosinternacionais>; Government of Chile (n.d.<sup>[59]</sup>), Website: ProChile y Género, <https://www.prochile.gob.cl/innovacion-y-competitividad/mujer-exporta/prochile-y-genero>; Government of Colombia (2023<sup>[60]</sup>), Press release: Gobierno nacional busca empresas lideradas por mujeres para exportar a África, <https://prensa.procolombia.co/gobierno-nacional-busca-empresas-lideradas-por-mujeres-para-exportar-africa>; PROCORDER (2022<sup>[61]</sup>), IMPULSA Program will promote gender equity in business through training and access to financing for companies led by women, <https://www.procomer.com/news/exporter-new/impulsa-program-will-promote-gender-equity-in-business-through-training-and-access-to-financing-for-companies-led-by-women/?lang=en>; Government of Peru (2024<sup>[62]</sup>), Press release: Más de 130 empresas lideradas por mujeres fueron capacitadas por el programa "Ella Exporta", <https://www.gob.pe/institucion/promperu/noticias/920343-mas-de-130-empresas-lideradas-por-mujeres-fueron-capacitadas-por-el-programa-ella-exporta>.

Moreover, some of the country brands developed by LAC TPAs aim to promote sustainability and include RBC considerations among the requirements for the use of the brand. One example is the brand developed by Costa Rica: “Essential Costa Rica”. This brand, which builds on the country’s positive environmental reputation, is aimed at promoting Costa Rica as a sustainable place to source from and includes various RBC-related requirements for its use. In order to become a licensee, companies must go through an evaluation process that assesses their social and environmental management policies, among other things. Likewise, companies that wish to use the country brands of Argentina and Chile must comply with requirements related to the areas covered by the MNE Guidelines (see Figure 2).

**Figure 2. The use of country brands to encourage sustainable and responsible practices from LAC exporters**

<b>MARCA PAÍS ARGENTINA</b>	<p>The Argentinean country brand – Marca País Argentina – aims to promote the country’s image and boost exports, tourism, and investments. Ensuring Argentina’s sustainable growth and protecting the country’s biodiversity are among the founding principles of the brand. Other goals include the promotion of diversity and gender equality, as well as the protection of human rights.</p> <p>In line with these goals, to acquire a license, companies must prove that their internal policies include sustainability and/or social impact programmes and gender equality considerations. During the evaluation process, priority access to the brand is given to certified B corporations and companies whose operations contribute to the protection of the environment, the creation of alternative energy sources and recycling.</p>
<b>MARCA CHILE</b>	<p>The Chilean country brand – Marca Chile – promotes a responsible future based on the following values: “Diversity”, “Creativity”, “Innovation”, “Sustainability”, and “Global Perspective”. Companies must follow these values and comply with existing regulations on labour, environmental and social responsibility, among others, to use the brand.</p> <p>The licensees are granted exclusive access to the services provided by the agency that runs the country brand, Imagen de Chile. This includes access to trainings, workshops and market studies, and priority participation in its events.</p>
<b>ESSENTIAL COSTA RICA</b>	<p>The country brand “Essential Costa Rica” builds on the country’s “green image” and relies on five core values: “Excellence,” “Sustainability,” “Social Progress,” “Innovation,” and “Costa Rican Rooting”. Exporters can apply to use the brand either at the corporate level or for a specific product following a licensing protocol based on the values of the brand. The criteria under the core value “Sustainability” include:</p> <ol style="list-style-type: none"> <li>i. an environmental criterion to assess if the applicant company has taken environmental management measures to efficiently use energy, to reduce emissions and the use of water, and to manage waste properly;</li> <li>ii. a social criterion to evaluate the company’s engagement with local communities and</li> <li>iii. an economic criterion to assess the viability of the company’s commercial and financial management.</li> </ol> <p>The core value “Social Progress” is used to determine if the applicant company has taken measures to guarantee the health and safety of its employees and if it provides them with relevant training opportunities, for instance, on gender equality.</p> <p>Licensed companies under “Essential Costa Rica” are featured on its website. They are also granted non-financial export support, including marketing and internationalization training, and discounts on PROCOMER’s services like trade missions and international fairs. The license may be revoked in case of false information or non-compliance with the requirements.</p>

Sources: Government of Argentina (n.d.<sup>[63]</sup>), Reglamento de la Marca País Argentina, [https://www.argentina.gob.ar/sites/default/files/reglamentompon\\_anexos.pdf](https://www.argentina.gob.ar/sites/default/files/reglamentompon_anexos.pdf); Government of Argentina (n.d.<sup>[64]</sup>), Website: Principios fundamentales de la Marca País Argentina, <https://www.argentina.gob.ar/turismoydeportes/marca-pais/principios-fundacionales>; Government of Chile (n.d.<sup>[65]</sup>), Website: Marca Chile, <https://marcachile.cl/marca-chile/uso-de-marca/>; Government of Costa Rica (n.d.<sup>[66]</sup>), Website: Esencial Costa Rica, <https://www.esencialcostarica.com/eng/licensing/i-want-to-be-essential-costa-rica/>.

Notwithstanding the above, to date, LAC TPAs do not link the access to their non-financial support services to the commitment by exporters that they observe RBC principles and standards. The only exception is ApexBrasil that conditions the access to its services to the observance of a Conduct Guide, pursuant to which companies must comply with the current domestic legislation regarding labour, tax, anti-corruption and social and environmental responsibility, as well as international standards in these areas (Government of Brazil, n.d.<sup>[67]</sup>). Exporters must also undergo a due diligence process in accordance with ApexBrasil’s

compliance programme that aims to safeguard the integrity of its activities. If the results of the due diligence are not satisfactory, the partnership may be discontinued (Government of Brazil, 2019<sup>[68]</sup>).

## 2.2. Responsible business conduct in investment promotion and facilitation policies in LAC

Investment promotion and facilitation policies are generally defined by the government entities in charge of investment – such as the responsible ministry or the IPA, who in some cases work together and sometimes with the participation of relevant institutions. These policies increasingly seek to achieve broader policy goals beyond attracting and retaining investments, including promoting sustainability and responsible business practices. The LAC region follows this trend. Most LAC countries now consider sustainability as a key aspect of investment promotion and facilitation and, through the sustainability lens, have started integrating RBC considerations in their overarching policies in the field.

This is notably the case in Brazil where the synergies between responsible investments and sustainable development have been at the core of the country's investment promotion and facilitation policies over recent years. In particular, Brazil's model Cooperation and Facilitation Investment Agreement (CFIA) aims to facilitate investments while incentivising investors to contribute to the host country's sustainable development and to adopt responsible business practices (see Section 3.2). Other LAC countries have also sought to reflect the links between sustainability and responsible investments in their investment promotion and facilitation policies (see Figure 3).

**Figure 3. Examples of LAC investment promotion and facilitation policies integrating sustainability as a key component**

<b>BRAZIL</b>	Brazil's National Programme for the Enhancement of the Investment Climate for 2023-2025 ( <i>Investe Mais Brasil</i> ) is divided into three pillars: (i) sustainability and responsibility; (ii) facilitation; and (iii) regulatory improvement. The actions foreseen under the first pillar to attract sustainable and responsible investments include the promotion and implementation of RBC policies and actions aligned with the MNE Guidelines, the realisation of studies and the promotion of international norms on due diligence for foreign investments; as well as the promotion of ESG certifications for strategic sectors.	<b>CHILE</b>	Chile's approach to investment promotion is articulated in Decree No. 72/2021, which lays out its National Strategy for Foreign Investment Promotion. The central objective of this Strategy is to contribute to the country's sustainable development through a proactive investment attraction policy. It defines RBC as a criterion for searching and attracting FDI by focusing on projects that promote sustainable development through responsible business practices, as well as projects that contribute to address global challenges, such as climate change.
<b>COLOMBIA</b>	Colombia has been actively seeking to attract sustainable investments since 2020. In 2023, it launched its new Foreign Trade Policy for Internationalisation and Productive Sustainable Development. One of the main goals of this policy is to attract foreign investors that can contribute to the country's sustainable development and energy transition.	<b>ECUADOR</b>	Ecuador, through Executive Decree No. 252 issued in 2018, elevated investment promotion as a policy priority. The Decree underscores the need for sustainable investment to generate employment, eradicate poverty, and meet the objectives of the National Development Plan.

Sources: Government of Brazil (2023<sup>[69]</sup>), Resolução CONINV No. 1 - Aprova o Programa Nacional para Melhoria do Ambiente de Investimentos, <https://in.gov.br/web/dou/-/resolucao-coninv-n-1-de-6-de-julho-de-2023-494849478>; Government of Chile (2022<sup>[70]</sup>), Decreto 72/2021 aprueba Estrategia de Fomento y Promoción de la Inversión Extranjera, <https://www.bcn.cl/leychile/navegar?idNorma=1173730>; Government of Colombia (2023<sup>[71]</sup>), Política de Comercio Exterior para la Internacionalización y el Desarrollo Productivo Sostenible, <https://www.mincit.gov.co/prensa/noticias/documentos-noticias/22-06-2023-socializacion-politica-comercio-exterio.aspx>; Government of Ecuador (2018<sup>[72]</sup>), Decreto Ejecutivo Nro. 252, <https://www.produccion.gob.ec/wp-content/uploads/downloads/2019/05/Decreto-Nro.-252-Declarese-pol%C3%ADtica-de-Estado-la-promoci%C3%B3n-y-atraci%C3%B3n-de-Inversi%C3%B3n1.pdf>.

The implementation of investment promotion and facilitation policies is usually the responsibility of IPAs. As these policies increasingly consider sustainability as a key policy goal, IPAs can be tasked with promoting and targeting sustainable investments and, more specifically, encouraging RBC among investors. Even when IPAs do not have such a specific mandate, they often integrate RBC considerations in their services for investors with a view to attracting more sustainable and responsible investments. In LAC, eight out of the nine countries covered by the report have an IPA. More than half of these IPAs have a specific mandate to attract sustainable investments and approximately a third have the mandate to promote RBC (Volpe Martincus and Sztajerowska, 2019, p. 50<sub>[12]</sub>) (see Table 2). This number is remarkably high considering that less than 10% of IPAs in OECD countries have the mandate to promote RBC (Volpe Martincus and Sztajerowska, 2019, p. 50<sub>[12]</sub>).

A noteworthy example of the promotion of sustainable investments is the work undertaken by the *Coalición Costarricense de Iniciativas de Desarrollo* (CINDE), Costa Rica's IPA until 2023.<sup>16</sup> Costa Rica's previous investment promotion strategy was based on three pillars "People, Planet, and Prosperity" (*Personas, Planeta y Prosperidad*) (CINDE, n.d.<sub>[73]</sub>). As a result, CINDE's mission was to position the country as a destination for sustainable investments (CINDE, n.d.<sub>[74]</sub>) (see Box 8).

### Box 8. Example of LAC IPAs' strategies to promote sustainable development: the case of Costa Rica

CINDE, Costa Rica's IPA until 2023, actively promoted sustainable development through its investment promotion and facilitation initiatives. Its strategic vision for 2019-2022 focused on positioning Costa Rica as a global leader for sustainable production, building on its longstanding environmental commitment and with the goal to attract FDI that contributes to the country's sustainable development.

To achieve this goal, CINDE took action to advance certain SDGs, notably SDG 4 (Quality Education), SDG 5 (Gender Equality), SDG 8 (Decent Work and Economic Growth), and SDG 9 (Industry, Innovation and Infrastructure). In relation to SDG 5, CINDE reported that, in 2020, nearly half (49%) of the new jobs created by companies receiving its support were held by women, surpassing the national average for female employment. Regarding SDG 8, CINDE reported achieving a 15% average annual growth in FDI for companies located beyond the Greater Metropolitan Area since 2016, resulting in an increase in formal employment opportunities in rural regions.

Since 2023, PROCOMER has taken over the role of Costa Rica's IPA. In accordance with its 2023-2026 Strategy and the National Strategy to Promote Foreign Direct Investment, PROCOMER continues to promote inclusive and sustainable investments.

Sources: CINDE (2021<sub>[75]</sub>), Impact Report 2020, <https://www.cinde.org/en/resources/impact-report-2020>; CINDE (2019<sub>[76]</sub>), CINDE Strategic Vision 2019-2022, <https://www.cinde.org/en/resources/strategic-vision-2019-2022>; PROCOMER (2023<sub>[77]</sub>), Estrategia PROCOMER 2023-2026, <https://www.procomer.com/wp-content/uploads/ESTRATEGIA-PROCOMER-2023.pdf>; PROCOMER (2023<sub>[78]</sub>), Estrategia de Inversión Extranjera Directa de Costa Rica, <https://www.procomer.com/wp-content/uploads/ESTRATEGIA-PROCOMER-IED-C2.pdf>.

Even though several LAC IPAs have the mandate to promote sustainability and/or RBC, this is generally not reflected in their prioritisation criteria for investment projects. For the time being, only a few IPAs in LAC have prioritised certain sectors based on considerations related to sustainability and/or RBC. When such a prioritisation is made it often seeks to give priority to investments in renewable energy. For instance, ApexBrasil has created a portfolio of investment projects in the renewable energy sector to present to investors during events and missions held in Brazil and abroad (Government of Brazil, n.d.<sub>[79]</sub>).

Likewise, LAC IPAs do not tend to integrate RBC considerations in the variety of services they bring to potential and established investors. During the pre-establishment phase, this includes identifying relevant



investment opportunities, offering tailored market and industry information, organising site visits, etc. In the context of the establishment phase, they generally assist investors in the launching of their operations through a variety of support activities and, during the post-establishment phase, they provide aftercare services. All these different services can constitute avenues to promote the implementation of responsible business practices by investors. However, for the time being, LAC IPAs seldom use them to encourage the observance of RBC principles and standards. Only a few of IPAs in the region take advantage of the documentation made available to investors to raise awareness about RBC.

ApexBrasil's Investment Guide, for instance, includes several references to RBC. In addition to highlighting Brazil's efforts to fight against corruption, the Guide draws investors' attention to the MNE Guidelines and the related Due Diligence Guidance in its the description of the legal framework for investment. It also includes information regarding the Brazilian NCP's mandate (Government of Brazil, 2019<sup>[80]</sup>). In Peru, the website of Proinversión is linked to the NCP's website, which includes all the information related to the MNE Guidelines and the NCP (Government of Peru, n.d.<sup>[81]</sup>). Other LAC IPAs, such as InvestChile, ProColombia, Pro Ecuador and PROPANAMA, have published investor's guides that contain relevant RBC-related information about the country's labour, environmental and/or anti-corruption legal framework. However, they do not explicitly reference RBC and the related OECD instruments, nor do they encourage investors to conduct due diligence or mention the NCP's existence and mandate (Government of Chile, 2021<sup>[82]</sup>; Government of Colombia, n.d.<sup>[83]</sup>; Government of Ecuador, 2018<sup>[84]</sup>; Government of Panama, n.d.<sup>[85]</sup>) (see Table 2).

**Table 2. Overview of the use of investment promotion and facilitation as a lever to promote RBC in LAC**

Country / Investment Promotion Agency (IPA)	Mandate to promote sustainable investments and/or RBC	Prioritisation criteria related to sustainability	Inclusion of references to RBC in documentation for investors	Promotion of RBC through services to investors
Argentina – AAICI	No	No	No	No
Brazil – ApexBrasil	Yes	Yes: renewable energy	Yes	Yes
Chile – InvestChile	Yes	No	No	Yes
Colombia – ProColombia	Yes	Yes: clean energy	No	Yes
Costa Rica – PROCOMER	Yes	Yes: green investments	Yes	Yes
Ecuador – Pro Ecuador	No	Yes: renewable and clean energy	No	No
Mexico – UIEG	Yes	No	No	No
Panama – PROPANAMA	No	Yes: renewable energy	No	No
Peru – Proinversión	Yes	No	Yes	Yes

Source: compiled by the OECD Secretariat based on an analysis of the investment promotion and facilitation policies of the nine LAC countries part of the RBCLAC Project.

Moreover, in general, most LAC IPAs, with the exception of Brazil's and Colombia's, do not consider whether investors or potential investors observe RBC principles and standards (such as the MNE Guidelines and the related Due Diligence Guidance) when granting them access to their services. In Brazil, investors requesting the support of ApexBrasil must undergo a selection process based on a questionnaire regarding the background of the company and the investment project and public information gathered by ApexBrasil (Government of Brazil, n.d.<sup>[67]</sup>). The investors are also subject to ApexBrasil's compliance programme that requires the conduct of an integrity due diligence process to prevent corruption (Government of Brazil, 2019<sup>[68]</sup>). In Colombia, as per the National Action Plan on Business and Human Rights, ProColombia is required to consult international databases to verify whether potential investors

have been found in breach of international human rights instruments (Government of Colombia, 2022<sup>[46]</sup>). In 2022, ProColombia reported having undertaken this verification for all the companies that received its assistance and that it had not found any human rights violations issues (Government of Colombia, 2022<sup>[86]</sup>).

# **3**

## **Stocktaking of the inclusion of responsible business conduct considerations in LAC countries' trade and investment agreements**

In addition to their trade and investment promotion and facilitation policies, LAC countries have also resorted to their trade and investment agreements with a view to promoting sustainable and responsible business practices from exporters and investors. The inclusion of RBC considerations in these agreements, through sustainability provisions and RBC clauses, has grown significantly in the last years.

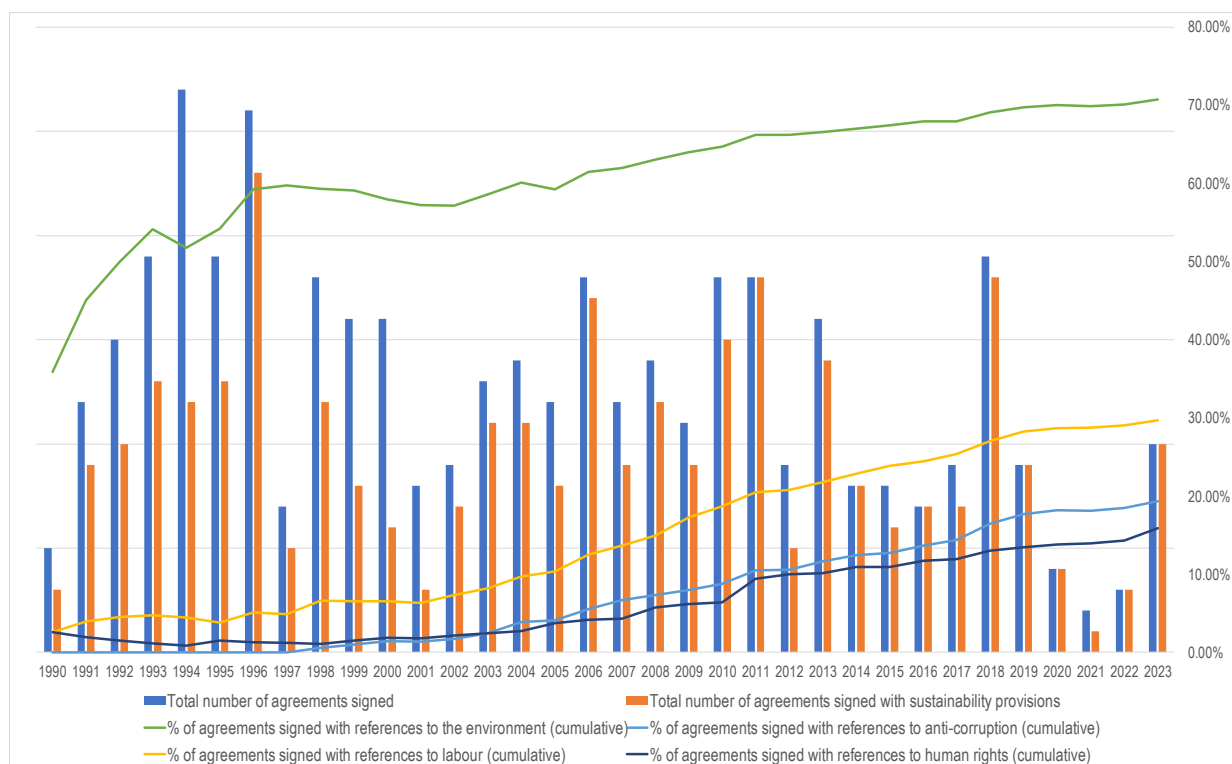
### **3.1. Sustainability provisions in LAC countries' trade and investment agreements**

In line with global trends in the field, the inclusion of sustainability provisions in LAC countries' trade and investment agreements has evolved over the years and varies in nature and scope (Gaukrodger, 2021<sup>[15]</sup>). For the past three decades, the number of sustainability provisions in these agreements has increased steadily.

By 1990, sustainability provisions related to the protection of the environment were only found in 35% of the agreements signed, reaching over 50% of agreements by 1995. Sustainability provisions regarding the promotion of labour rights have had a similar trajectory, increasing to cover around 32% of current agreements. The inclusion of sustainability provisions focusing on anti-corruption began in the late 1990s and grew to outpace the inclusion of provisions on human rights by 2003. Provisions related to the fight against corruption are now present in 20% of agreements, whereas only 15% include provisions on human rights. Some LAC countries' trade and investment agreements dedicate full chapters to the protection of the environment, the promotion of labour rights, or the fight against corruption.

Overall, sustainability provisions have increasingly gained space in LAC countries' trade and investment agreements, as shown by the fact that 100% of the agreements signed by LAC countries in 2023 contain such provisions (see Figure 4).

**Figure 4. Evolution over time of the inclusion of sustainability provisions in LAC countries' trade and investment agreements**



Source: compiled by the OECD Secretariat based on an analysis of the content of the trade and investment agreements concluded by the nine LAC countries part of the RBCLAC Project.

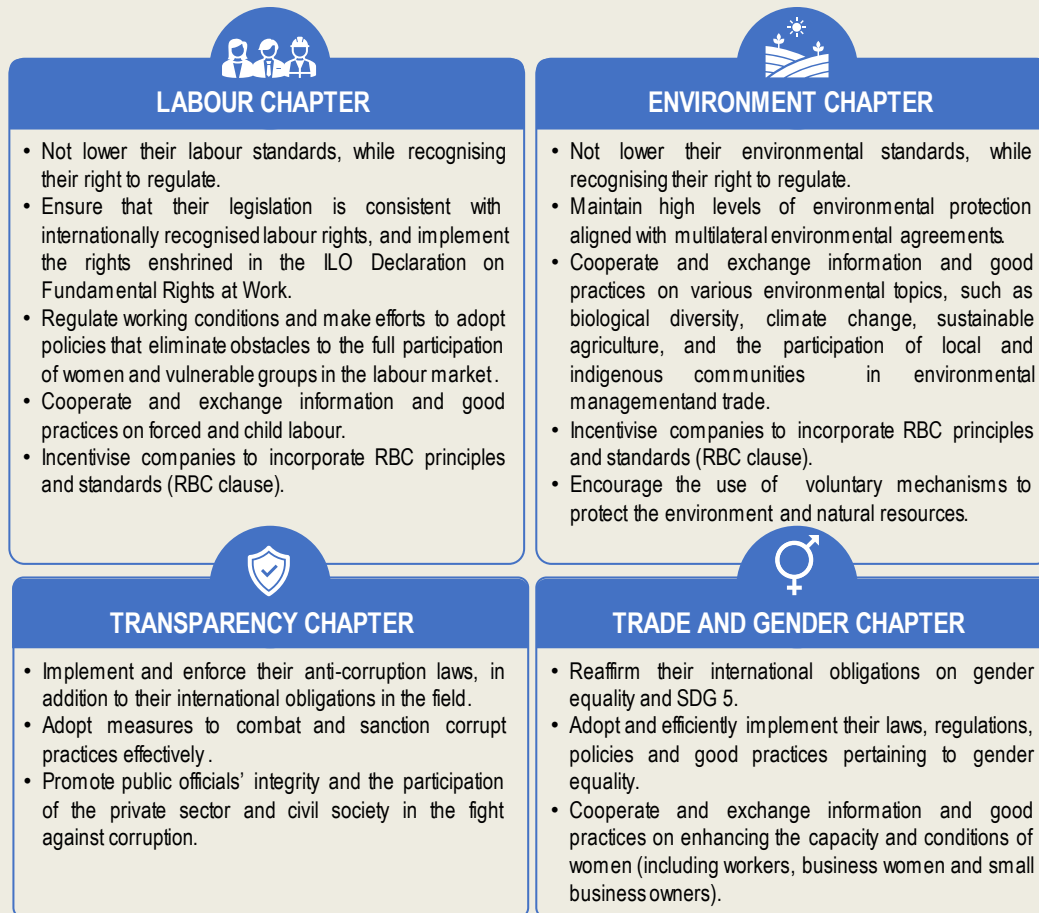
In fact, some of the most comprehensive agreements in terms of sustainability provisions can be found in LAC countries' trade and investment agreements. For instance, the Chile–Ecuador FTA integrates various chapters dedicated to several areas of the MNE Guidelines (labour, environment, anti-corruption, as well as gender). Each of these chapters incorporates a variety of sustainability provisions. This includes provisions through which the signatories commit to incorporate and disseminate in their domestic legal frameworks internationally recognised principles and standards in these areas and/or to enforce related domestic laws and regulations. It also includes provisions that seek to preserve the signatories' right to regulate in these areas, as well as provisions that prohibit the signatories from lowering or weakening their laws and regulations in these same areas to attract trade and investment (see Box 9).

### Box 9. Detailed sustainability provisions in LAC countries' trade and investment agreements

The FTA concluded between Chile and Ecuador, in force since 2022, reaffirms, from its preamble, the signatories' commitment to sustainable development, the preservation of the environment and the protection of labour rights. In the body of the agreement, each chapter dedicated to various areas of the MNE Guidelines contains many sustainability provisions.

**Figure 5. Sustainability provisions in the Chile–Ecuador FTA**

Through these sustainability provisions, the signatories commit to:



The FTA also includes sustainability provisions that contribute to facilitate access to remedy and public participation. This includes procedural safeguards for labour matters and access to justice for environmental issues through which the signatories commit to ensure access to fair, impartial, and independent courts to enforce labour or environmental legislation, and to guarantee that parties can exercise their right of appeal for labour issues. Moreover, the FTA introduces the possibility for citizens and/or civil society organisations to file public communications on labour and environmental issues if they deem that the signatories are not fulfilling their obligations under these chapters.

Source: (2020<sup>[87]</sup>), Chile-Ecuador FTA, <https://www.subrei.gob.cl/acuerdos-comerciales/acuerdos-comerciales-vigentes/ecuador#:~:text=De%20esta%20manera%2C%20se%20negocia,16%20de%20mayo%20de%202022>.

The inclusion of sustainability provisions in the trade and investment agreements concluded by LAC countries has helped to promote and enable RBC in the region in different ways. As further detailed below, these provisions have notably contributed to the reinforcement of the signatories' legal and policy frameworks in areas relevant for RBC, to the promotion of RBC across government and with businesses and stakeholders, as well as to facilitate access to remedy in some cases.

There are various examples of how the integration of sustainability provisions in LAC countries' trade and investment agreements has buttressed the adoption of domestic laws, regulations, and policies in relation



to matters covered by the MNE Guidelines. The sustainability provisions on forced or compulsory labour included in the labour chapter of the United States–Mexico–Canada Agreement (USMCA) is one of them (London School of Economics and Political Science, 2022, p. 16<sub>[20]</sub>). According to this provision, each signatory shall prohibit the importation of goods into its territory produced in whole or in part by forced or compulsory labour, including forced or compulsory child labour.<sup>17</sup> Based on this provision, Mexico enacted an administrative regulation granting the Ministry of Labour and Social Welfare (*Secretaría del Trabajo y Previsión Social*, STPS) the authority to initiate a procedure, either on its own or at the request of a private entity, to investigate the use of forced labour in the production of goods (Government of Mexico, 2023<sub>[88]</sub>). Should the investigation reveal that specific goods were manufactured with forced labour, the STPS will publish this information and prohibit these goods from entering the country. Shortly after the entry into force of the regulation, the STPS received the first request to investigate an alleged case of forced labour. A civil society organisation requested an investigation regarding the supply chains of two Chinese companies from which Mexican local and state governments acquired mass video surveillance cameras, and which would have purportedly been linked to forced labour in the Xinjiang province (Empower, 2024<sub>[89]</sub>). According to information published by the civil society organisation, the request was dismissed by the STPS in November 2023 due to insufficient evidence of the use of forced labour (Empower, 2024<sub>[89]</sub>).

Another type of sustainability provisions that has contributed to reinforce legal and policy frameworks in the areas covered by the MNE Guidelines in LAC is one that seeks to preserve the signatories' right to regulate in these areas by allowing them to adopt and enforce laws, regulations or policies without legal risks. This is the type of sustainability provisions most frequently included in LAC countries' trade and investment agreements, with more than 60% of agreements containing such provisions.<sup>18</sup> The award rendered in the *David R. Aven and others v. Costa Rica* investment arbitration is an example of how these provisions can contribute to protect policy space and to the implementation of the environmental legal framework. In this case, Costa Rica successfully relied on the sustainability provisions of the 2004 Dominican Republic–Central America–United States Free Trade Agreement (2004 CAFTA-DR) to justify shutting down an investment project that did not comply with its environmental legislation (see Box 10).<sup>19</sup>

#### **Box 10. RBC-related issues under LAC countries' investment agreements: the *David R. Aven and others v. Costa Rica* investment arbitration case**

In 2002, U.S. nationals purchased several parcels of land on the Costa Rican pacific coast to develop a tourism project, Las Olas. Thereafter, residents filed a complaint before the municipality alleging that there were wetlands on the project site, which was confirmed by subsequent inspections. This led to several domestic judicial and administrative actions, including the shutdown of the site and criminal proceedings against the investors for having breached Costa Rican environmental laws. The investors then brought an investment arbitration claim against Costa Rica arguing that the shutdown of the project was in breach of Costa Rica's obligations under the 2004 Dominican Republic–Central America–United States Free Trade Agreement (2004 CAFTA-DR). In particular, they claimed that Costa Rica had indirectly expropriated their investment without compensation and had failed to accord them fair and equitable treatment. In turn, Costa Rica alleged that it had acted in accordance with its environmental legislation to avoid environmental harm.

In its decision, the arbitral tribunal relied on a sustainability provision of the 2004 CAFTA-DR, which foresees that nothing in the investment chapter can prevent a signatory from adopting, maintaining, or enforcing a measure, otherwise consistent with it, to ensure that investments in its territory respect environmental concerns. The tribunal found that the measures taken by Costa Rica to protect the environment were consistent with international law and were neither arbitrary nor in breach of its obligations under the 2004 CAFTA-DR. Based on this sustainability provision, the arbitral tribunal

recognised Costa Rica's right to apply and enforce its environmental legislation without being held in breach of the provisions of the 2004 CAFTA-DR.

Source: (2018<sup>[90]</sup>), David Aven et al. v. Costa Rica, Final Award, [https://www.italaw.com/sites/default/files/case-documents/italaw9955\\_0.pdf](https://www.italaw.com/sites/default/files/case-documents/italaw9955_0.pdf).

The inclusion of sustainability provisions in LAC countries' trade and investment agreements has also contributed to the strengthening of intergovernmental collaboration for the promotion of RBC. The institutional and monitoring mechanisms established by the Trade and Sustainable Development (TSD) Chapter of the 2012 Central America–EU Association Agreement constitute a telling example. The TSD Chapter creates a Board of Trade and Sustainable Development (TSD Board), comprised of high-level authorities of each signatory, which meets yearly to oversee the implementation of the Chapter. In recent years, the TSD Board has served as a forum through which the signatories have cooperated on RBC issues, thereby contributing to the development of policies that promote and enable RBC (see Box 11).

### **Box 11. The Board of Trade and Sustainable Development of the Central America-EU Association Agreement: a forum to cooperate on and advance policies that promote RBC**

The Board of Trade and Sustainable Development (TSD Board) was created to oversee the implementation of the Title on Trade and Sustainable Development (TSD Chapter) included in the 2012 Central America–EU Association Agreement. Over recent years, the TSD Board has proven to be a valuable tool for the promotion of RBC. Not only has it allowed governments to cooperate on different areas relevant for RBC covered by the TSD Chapter, but also on building the capacity of Central American exporters to meet related European Union (EU) market access requirements.

For instance, the TSD Board has organised workshops on issues related to the environment, labour rights, or corporate social responsibility (CSR). These workshops have helped raise awareness among the signatories that adopting and implementing adequate legal and policy frameworks is crucial to help exporters meet environmental and social requirements to access the EU market. In addition, during the TSD Board's meetings, the signatories have had to report on their progress in implementing the environmental and labour aspects of the TSD Chapter and to respond to concerns from other signatories on these aspects. This has enhanced cooperation on RBC issues and the development and implementation of relevant government policies, as illustrated by the following examples:

- Costa Rica mentioned the positive effect of the TSD Board's work on the development of its National Policy on Social Responsibility for 2017-2030 (*Política Nacional de Responsabilidad Social 2017-2030*) (2018).<sup>1</sup>
- The TSD Board agreed to adopt a cooperation agenda to further promote trade and sustainable development and cooperate on various RBC-related topics, including responsible and sustainable supply chains, decent work, gender equality, and climate change (2018).<sup>2</sup>
- The signatories reiterated their commitment to further strengthen cooperation on the CSR/RBC and decent work agenda (2019).<sup>3</sup>
- The European Commission's Directorate-General for Trade presented the EU's legislative initiatives related to RBC and the signatories agreed to keep exchanging on these developments in light of their impact on supply chains and Central American exporters (2021).<sup>4</sup>
- The EU highlighted that cooperation projects – such as the RBCLAC Project – are important to prepare for the implementation of EU RBC-related legislation and stressed the need to involve businesses in the promotion of labour standards (2023).<sup>5</sup>

## Notes:

1. Report to the Civil Society Forum of the Fourth Meeting of the Board of Trade and Sustainable Development, 13 June 2018, p. 8, [https://circabc.europa.eu/ui/group/09242a36-a438-40fd-a7af-fe32e36cbd0e/library/53407466-0f86-430e-a5ed-bc7005d86a46?p=1&n=10&sort=modified\\_DESC](https://circabc.europa.eu/ui/group/09242a36-a438-40fd-a7af-fe32e36cbd0e/library/53407466-0f86-430e-a5ed-bc7005d86a46?p=1&n=10&sort=modified_DESC).
2. *Ibid.*, pp. 8-9.
3. Minutes of the Fifth Meeting of the Board of Trade and Sustainable Development, June 2019, p. 9, <https://circabc.europa.eu/ui/group/09242a36-a438-40fd-a7af-fe32e36cbd0e/library/6882f9de-069a-4fd4-b899-783f826185a1/details>.
4. Minutes of the Seventh Meeting of the Board of Trade and Sustainable Development, June 2021, p. 1, <https://circabc.europa.eu/ui/group/09242a36-a438-40fd-a7af-fe32e36cbd0e/library/5959c534-2899-4192-a359-f28b53e238c5/details>.
5. Minutes of the Ninth Meeting of the Board of Trade and Sustainable Development, June 2023, p. 13, [https://circabc.europa.eu/ui/group/09242a36-a438-40fd-a7af-fe32e36cbd0e/library/b095e8f4-6536-4242-b706-80c580e0521b?p=1&n=10&sort=modified\\_DESC](https://circabc.europa.eu/ui/group/09242a36-a438-40fd-a7af-fe32e36cbd0e/library/b095e8f4-6536-4242-b706-80c580e0521b?p=1&n=10&sort=modified_DESC).

Lastly, sustainability provisions can also contribute to facilitate access to remedy, notably by allowing the filing of public submissions on labour and environmental matters that signatories have to consider and respond to. The Facility-Specific Rapid Response Labour Mechanism introduced by the USMCA is a pioneering example as it allows public submissions in case of concerns relating to the violations of workers' rights to freedom of association and collective bargaining at specific facilities. Its purpose is to ensure that these violations are remediated and that RBC principles and standards on labour matters are upheld at the firm level. For this purpose, the signatories are authorised to impose trade sanctions on goods and services from these facilities and only lift them after remediation, thereby facilitating access to remedy for victims of adverse impacts on their labour rights (see Box 12).

### Box 12. RBC-related enforcement mechanisms: the USMCA Rapid Response Mechanism

The USMCA created the Facility-Specific Rapid Response Labour Mechanism (RRM). This mechanism aims to enforce labour rights at the firm level through expedited dispute resolution process in case of alleged breaches of workers' rights of free association and collective bargaining at "Covered Facilities".<sup>1</sup>

Under the RRM, any interested party (trade union, civil society organisation, etc.) can submit a petition to one of the three National Administrative Office of the USMCA's signatories in case of a denial of workers' rights at a Covered Facility. If the petition is accepted, the claimant signatory can submit a request for review to the signatory where the Covered Facility is located. The respondent signatory then has 45 days to conduct a review of the situation. During this period, customs payments can be delayed. If the respondent signatory acknowledges the denial, the parties have to agree on a remediation plan. Failure to do so can lead the dispute before a Rapid Response Labour Panel. If the Panel confirms the breaches, commercial sanctions can be taken until remediation, including denying entry to goods.

Since its implementation in 2021, the RRM has only been activated for alleged breaches of labour rights at Covered Facilities located in Mexico. At the time of writing, there had been 16 complaints in the automotive sector, two in the mining sector, and one in the following sectors: garment, transportation, telecommunications, agriculture, and industrial processing. Mexico accepted ten of the 16 requests for review, out of which five resulted in agreed remediation plans. Mexico rejected three instances, either due to lack of evidence or because the alleged denials occurred before the USMCA's entry into force. One of the cases rejected due to the USMCA's date of entry into force led to the first recourse being brought before a Rapid Response Labour Panel and was pending at the time of writing.

Although it was created only recently, the RRM has shown its potential to protect freedom of association and collective bargaining rights. For instance, in May 2023, the first case involving the garment sector

was brought by a Mexican labour organisation and a trade union against Industrias del Interior (INISA), alleging coercion of workers to accept proposed collective agreement revisions and interference in the union's internal affairs at a Facility in Aguascalientes. Within three months, Mexico and the United States agreed on a remediation plan. INISA and the Government of Mexico committed to various measures to protect and ensure the workers' freedom of association and collective bargaining rights. INISA agreed to establish a zero-tolerance policy for breaches to workers' rights as well as an internal complaint mechanism. In turn, the Government of Mexico pledged to promote workers' rights through initiatives such as in-person trainings for company personnel on freedom of association and collective bargaining.

Note:

1. 2019 USMCA, Chapter 31 (Dispute Resolution), Article 31-A.15 and Article 31-B.15. "Covered facilities" are facilities in priority sectors that manufacture goods or supply services, either traded between the signatories or competing in the territory of a signatory with goods or services of another signatory. A priority sector is defined as "a sector that produces manufactured goods, supplies services, or involves mining." Manufactured goods include, but are not limited to, aerospace products and components, autos and auto parts, cosmetic products, industrial baked goods, steel and aluminium, glass, pottery, plastic, forgings, and cement.

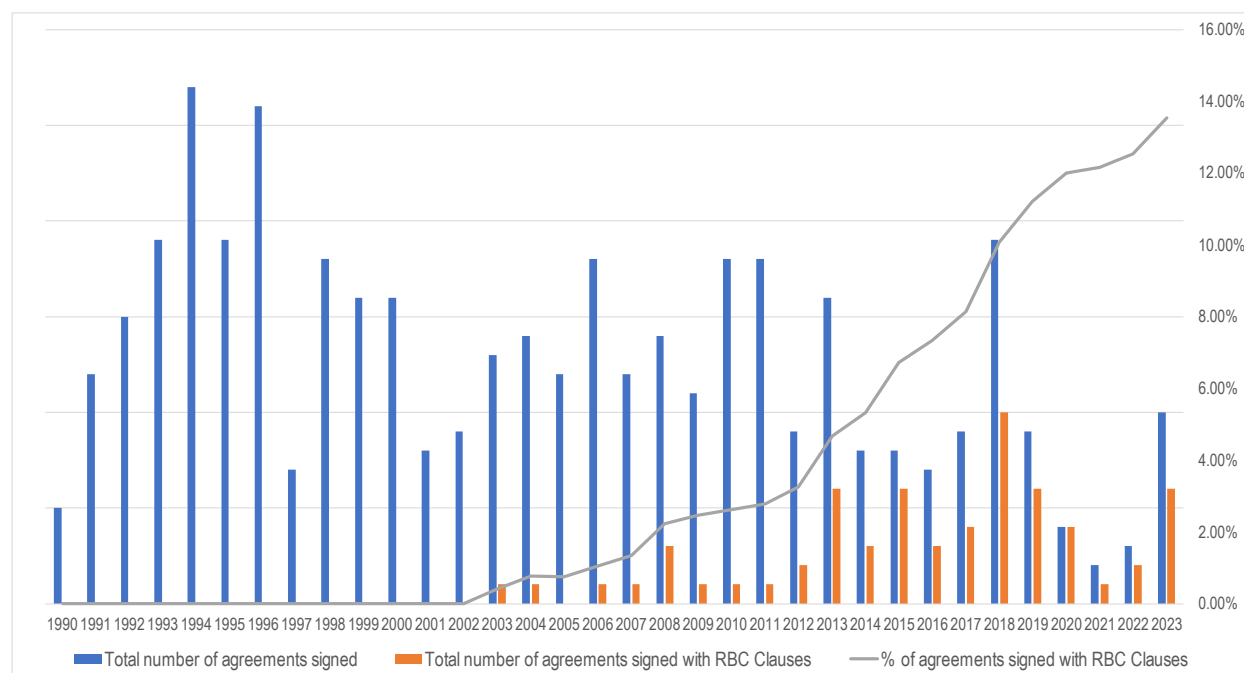
Sources: (2019<sup>[91]</sup>), USMCA, <https://ustr.gov/trade-agreements/free-trade-agreements/united-states-mexico-canada-agreement>; Government of the United States (2023<sup>[92]</sup>), Press release: United States Announces Successful Resolution of Rapid Response Labor Mechanism Matter at a Mexican Garment Facility, <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2023/december/united-states-announces-successful-resolution-rapid-response-labor-mechanism-matter-mexican-garment>.

### 3.2. Responsible business conduct clauses in LAC countries' trade and investment agreements

Following a similar trend as that observed for sustainability provisions, the inclusion of RBC clauses in LAC countries' trade and investment agreements has also risen in the last two decades. RBC clauses were introduced in these agreements for the first time twenty years ago by the Chile–United States FTA, signed in 2003. In fact, globally, this was the first agreement ever to include an RBC clause, followed by the United States–Peru FTA and the Canada–Peru FTA, which entered into force in 2009 (Jacur, 2018<sup>[93]</sup>). The first RBC clause in the Chile–United States FTA was included in the chapter on environment and promoted the principles of corporate stewardship.

Today, nearly 14% of all the trade and investment agreements signed by LAC countries to date contain an RBC clause. The relative increase in the number of agreements including RBC clauses in LAC since 2015 is partially due to Brazil's development of its model CFIA, which includes a detailed RBC clause (see Figure 6). As a result of the adoption of the CFIA model, almost half of the LAC investment agreements containing an RBC clause are signed by Brazil. Chile, Colombia, and Peru are also among the LAC countries with the highest number of RBC clauses in their trade and investment agreements (see Annex B for more details). In 2023, 60% of the trade and investment agreements concluded by LAC countries during the year included an RBC clause.

**Figure 6. Evolution over time of the inclusion of RBC clauses in LAC countries' trade and investment agreements**

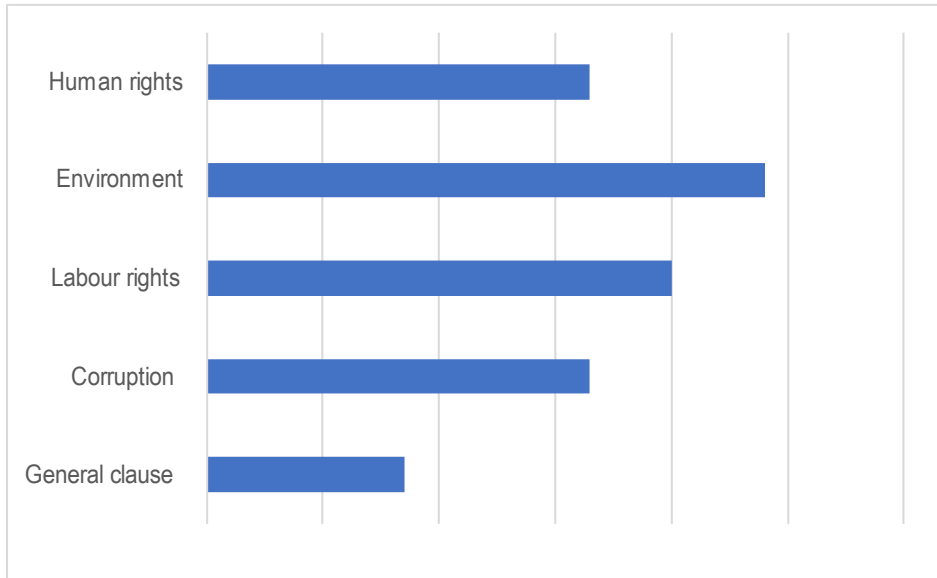


Source: compiled by the OECD Secretariat based on an analysis of the content of the trade and investment agreements concluded by the nine LAC countries part of the RBCLAC Project.

The RBC clauses included in LAC countries' trade and investment agreements are of diverse types. Some of these clauses are of a general nature and reflect the commitments of the signatories to encourage companies operating in their territory to incorporate RBC principles and standards in their internal policies. Others do the same but only in relation to certain areas of the MNE Guidelines; most generally, labour or environment. The majority of these clauses, however, relate expressly to several areas of the MNE Guidelines. The Colombia–Canada FTA, for instance, provides that each party should encourage businesses within its territory or jurisdiction to voluntarily adopt internationally recognised RBC standards in their internal policies.<sup>20</sup> It adds that these principles cover areas such as labour, the environment, human rights, community relations and anti-corruption. Human rights and corruption are the two areas of the MNE Guidelines that are the least covered by the RBC clauses included in LAC countries' trade and investment agreements (see Figure 7).



**Figure 7. Areas of the MNE Guidelines mentioned in RBC clauses included in LAC countries' trade and investment agreements**



Source: compiled by the OECD Secretariat based on an analysis of the content of the trade and investment agreements concluded by the nine LAC countries part of the RBCLAC Project.

The trade and investment agreements concluded by LAC countries include some very detailed RBC clauses. This is partly due to the level of detail of the RBC clause included in Brazil's CFIA model, which has led to the signing of various investment agreements that integrate it. The model CFIA includes a two-part RBC clause through which the parties first signal to businesses that they shall make their best efforts to maximise their contribution to sustainable development by adopting socially responsible practices. The clause then specifies which RBC principles and standards businesses should strive to comply with in this context. Another example of a detailed RBC clause is the one contained in the chapter on investment of the Pacific Alliance Additional Protocol. The clause enshrines the parties' commitment to encourage companies to incorporate RBC principles and standards and specifies in which areas, with an indirect reference to the areas covered by the MNE Guidelines. A detailed RBC clause is also found in the investment chapter of the Mercosur–Singapore FTA, which was recently signed and has not yet entered into force. A noteworthy and singular element of this RBC clause is that it seeks to promote businesses' meaningful stakeholder engagement with indigenous peoples and local communities (see Figure 8).<sup>21</sup>

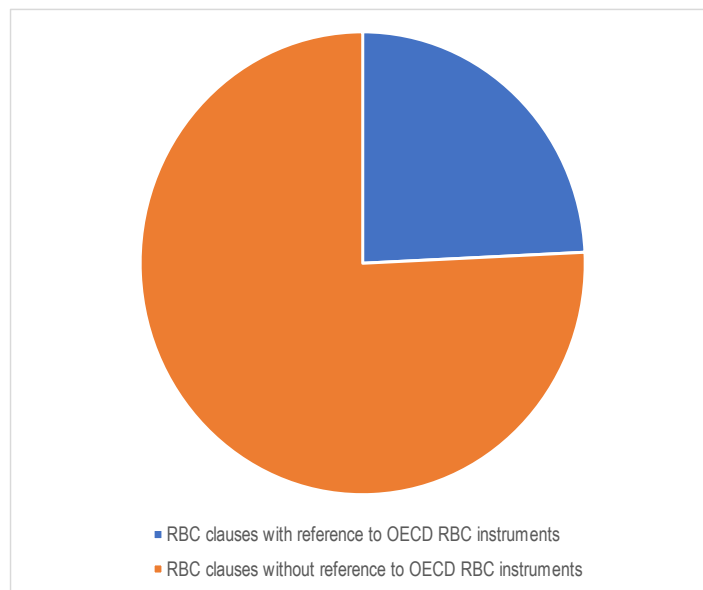
**Figure 8. Examples of detailed RBC clauses included in LAC countries' trade and investment agreements**

<b>BRAZIL CFIA MODEL</b>	<p>The Brazilian model CFIA includes a two-part RBC clause. It first affirms that investors and their investments shall make their best efforts to maximise their contribution to the sustainable development of the host state by adopting a high level of socially responsible practices, based on RBC principles and standards. It then lists these principles and standards, which include:</p> <ul style="list-style-type: none"> <li>• promoting economic, social and environmental progress to achieve sustainable development, respecting the human rights of those involved in the company's activity;</li> <li>• strengthening local capacity building through close cooperation with local communities;</li> <li>• adopting and implementing good corporate governance practices;</li> <li>• encouraging, when possible, business partners, including direct providers and subcontractors, to apply RBC principles.</li> </ul> <p>This model has been used in several negotiations and has led to the signing of various CFIA's, some of which expressly refer to the MNE Guidelines, such as the CFIA's signed with Chile, the Emirates and Ethiopia.</p>
<b>CHILE-ECUADOR FTA</b>	<p>The Chile-Ecuador FTA includes two RBC clauses in its chapter on trade and labour issues and in its chapter on trade and environment.</p> <p>Through these clauses, the parties commit to encourage companies operating within their territory or jurisdiction to incorporate in their policies RBC principles and standards that contribute to achieving sustainable development in its labour and environmental dimension.</p> <p>The RBC clause of the chapter on trade and labour is more detailed and enshrines the commitment of the parties to promote international norms on business and human rights, including the UN Guiding Principles on Business and Human Rights.</p>
<b>PACIFIC ALLIANCE'S ADDITIONAL PROTOCOL</b>	<p>The Additional Protocol of the Pacific Alliance, signed by Chile, Colombia, Mexico, and Peru, provides in Article 10.30 of its investment chapter that each party shall encourage businesses operating within their territory and jurisdiction to voluntarily incorporate internationally recognised RBC principles and standards into their policies.</p> <p>Through this RBC clause, each party commits to convey to businesses the importance of incorporating these principles and standards into their internal policies, notably those related to the areas covered by the MNE Guidelines, such as human rights, labour rights, the protection of the environment and the fight against corruption.</p> <p>Each party also undertakes to identify and share best practices to implement the commitments of the MNE Guidelines and to maximise the contribution of multinational enterprises to sustainable development.</p>
<b>MERCOSUR-SINGAPORE FTA</b>	<p>The FTA concluded by the four Mercosur countries with Singapore in December 2023 contains a detailed RBC clause, with singular elements. With this clause, the Parties not only commit to encourage companies (and natural persons) to voluntarily incorporate international RBC standards and principles in their practices and policies. The clause also provides that they should encourage businesses to undertake and maintain meaningful engagement and dialogue with indigenous peoples, traditional communities, and local communities.</p> <p>Moreover, the RBC clause recognises the importance that companies implement due diligence to identify and address adverse impacts, such as impacts on the environment and labour conditions.</p>

Sources: Government of Brazil (n.d.<sup>[94]</sup>), Model Cooperation and Facilitation Investment Agreement, <https://investmentpolicy.unctad.org/international-investment-agreements/treaty-files/4786/download>; (2020<sup>[87]</sup>), Chile-Ecuador FTA, <https://www.subrei.gob.cl/acuerdos-comerciales/acuerdos-comerciales-vigentes/ecuador#:~:text=De%20esta%20manera%2C%20se%20negocia,16%20de%20mayo%20de%202022>; Pacific Alliance (2014<sup>[95]</sup>), Pacific Alliance Additional Protocol, <https://www.tlc.gov.co/TLC/media/media-TLC/Documentos/Capitulo-10-%e2%80%93-Inversion.pdf>; (2023<sup>[96]</sup>), MERCOSUR-Singapore FTA, <https://www.cancilleria.gob.ar/es/acuerdo-de-libre-comercio-mercosur-singapur>.

Despite their level of detail, in general, RBC clauses in LAC countries' trade and investment agreements rarely clarify what constitute responsible business practices or pinpoint to any specific RBC principles and standards that companies should observe, such as the MNE Guidelines or the related Due Diligence Guidance. In fact, only 15 of the 66 LAC trade and investment agreements that contain an RBC clause expressly refer to the OECD RBC instruments and 5 to the UN Guiding Principles on Business and Human Rights (see Figure 9).

**Figure 9. References to OECD RBC instruments in RBC clauses included in LAC countries' trade and investment agreements**



Source: compiled by the OECD Secretariat based on an analysis of the content of the trade and investment agreements concluded by the nine LAC countries part of the RBCLAC Project.

Some agreements, however, include references to the main international instruments in the field. This is the case of the Chile–Ecuador FTA, which includes in its chapter on trade and labour issues an RBC clause that encourages companies to incorporate RBC principles and standards, and directly references the UN Guiding Principles on Business and Human Rights.<sup>22</sup>

The three agreements recently negotiated by LAC countries or regional groups with the EU also contain detailed RBC clauses that all mention the three main international instruments on RBC. For instance, the TSD chapters included in the trade part of the Mercosur–EU Association Agreement and the Mexico–EU Association Agreement – which have not yet been signed – refer specifically to the MNE Guidelines, the ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy, and the UN Guiding Principles on Business and Human Rights. Similar wording is found in the TSD Chapter of the Chile–EU Advanced Framework Agreement, which was signed in December 2023 but is not yet in force. Moreover, through the RBC clauses of these three agreements, the signatories recognise the usefulness of the OECD Due Diligence Guidance, which is mentioned expressly, and they commit to promote their uptake (see Table 3).

**Table 3. Examples of detailed RBC clauses included in agreements recently negotiated by LAC countries with the EU**

Agreement	Status	Text of the RBC clause
<b>TRADE AGREEMENTS</b>		
<a href="#">Chile-EU Advanced Framework Agreement</a>	Signed Not in force	<p><b>Chapter 33 on Trade and Sustainable Development, Article 33.3: Trade and Responsible Business Conduct and Supply Chain Management</b></p> <p>1. The Parties recognise the importance of responsible management of supply chains through responsible business conduct or corporate social responsibility practices and the role of trade in pursuing this objective.</p> <p>2. Pursuant to para 1, each Party shall:</p> <p>(a) promote responsible business conduct or corporate social responsibility by encouraging the uptake of relevant practices by businesses that are consistent with internationally recognized principles, standards and guidelines, including sectorial guidelines of due diligence, that have been endorsed or are supported by that Party.</p>

Agreement	Status	Text of the RBC clause
		<p>(b) support the dissemination and use of relevant international instruments, that have been endorsed or are supported by that Party, such as the OECD Guidelines for Multinational Enterprises, the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, the UN Global Compact and the UN Guiding Principles on Business and Human Rights.</p> <p>3. The Parties recognise the utility of international sector-specific guidelines in the area of corporate social responsibility / responsible business conduct and shall promote joint work in this regard. The Parties shall also implement measures to promote the uptake of OECD Due Diligence Guidelines.</p> <p>4. The Parties recognise the importance to promote trade in goods contributing to enhanced social conditions and environmentally sound practices, such as environmental goods and services contributing to a resource-efficient, low-carbon economy, goods whose production is not linked to deforestation, or goods that are the subject of voluntary sustainability assurance schemes and mechanisms.</p> <p>5. The Parties shall exchange information as well as best practices and, as appropriate, cooperate bilaterally, regionally and in international fora on issues covered by this article.<sup>1</sup></p>
<a href="#">Mercosur-EU Association Agreement (Trade Part)</a>	Not signed	<p><b>Chapter on Trade and Sustainable Development, Article 11: Trade and Responsible Management of Supply Chains</b></p> <p>The Parties recognise the importance of responsible management of supply chains through responsible business conduct and corporate social responsibility practices based on internationally agreed guidance.</p> <p>2. Pursuant to paragraph 1, each Party shall:</p> <p>(a) support the dissemination and use of relevant international instruments that it has endorsed or supported, such as the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, the UN Global Compact, the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises.</p> <p>(b) promote the voluntary uptake by companies of corporate social responsibility or responsible business practices, consistent with the above-mentioned guidelines and principles.</p> <p>(c) provide a supportive policy framework for the effective implementation of the abovementioned guidelines and principles.</p> <p>3. The Parties recognise the utility of international sector-specific guidelines in the area of corporate social responsibility or responsible business conduct and shall promote joint work in this regard. In respect of the OECD Due Diligence Guidance for responsible supply chains of minerals from conflict-affected and high-risk areas and its supplements, the Parties adhering to or supporting such Guidance shall also promote the uptake of this Guidance.</p> <p>4. The Parties shall exchange information as well as best practices and, as appropriate, cooperate on issues covered by this article, including in relevant regional and international fora.</p>
<a href="#">Mexico-EU Association Agreement (Trade Part)</a>	Not signed	<p><b>Chapter on Trade and Sustainable Development, Article 9: Trade and Responsible Management of Supply Chains</b></p> <p>1. The Parties recognise the importance of responsible management of supply chains through responsible business conduct and corporate social responsibility practices, which contribute to an enabling environment, and the role of trade in pursuing the objective of responsible management of supply chains.</p> <p>2. Pursuant to paragraph 1, each Party shall:</p> <p>(a) promote corporate social responsibility or responsible business conduct, including by encouraging the uptake of relevant practices by businesses;</p> <p>(b) support the dissemination and use of relevant international instruments, such as the OECD Guidelines for Multinational Enterprises, the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, the UN Global Compact and the UN Guiding Principles on Business and Human Rights.</p> <p>3. The Parties recognise the utility and shall promote the uptake of international sector-specific guidelines in the area of corporate social responsibility or responsible business conduct adopted by their Governments, such as the OECD Due Diligence Guidance documents for responsible supply chains, and shall promote joint work in this regard, including with respect to third countries.</p> <p>4. The Parties shall exchange information as well as best practices and, as appropriate, cooperate with the other Party, regionally and in international fora on issues covered by this article.</p>
<b>INVESTMENT CHAPTER OF TRADE AGREEMENTS</b>		
<a href="#">Chile-EU Advanced Framework Agreement</a>	Signed Not in force	<p><b>Chapter 17 on Investment, Article 17.24: Responsible Business Conduct</b></p> <p>1. Without prejudice to Chapter 33, each Party shall encourage covered investments to incorporate into their internal policies internationally recognised principles and guidelines of corporate social responsibility or responsible business conduct such as the OECD Guidelines for Multinational Enterprises, the ILO Tripartite Declaration for Multinational Enterprises, and the United Nations' Guiding Principles on Business and Human Rights.</p> <p>2. The Parties reaffirm the importance of investors conducting a due diligence process to identify, prevent, mitigate, and account for the environmental and social risks and impacts of its investment.<sup>2</sup></p>

## Notes:

1. Chile-EU Advanced Framework Agreement, Unofficial Translation from Spanish Original text: [https://www.subrei.gob.cl/docs/default-source/acuerdos/ama/capitulo-33-comercio-y-desarrollo-sostenible.pdf?sfvrsn=e30783ff\\_1](https://www.subrei.gob.cl/docs/default-source/acuerdos/ama/capitulo-33-comercio-y-desarrollo-sostenible.pdf?sfvrsn=e30783ff_1).

2. Chile-EU Advanced Framework Agreement, Unofficial Translation from Spanish Original text: [https://www.subrei.gob.cl/docs/default-source/acuerdos/ama/capitulo-17-inversion.pdf?sfvrsn=b6b3992d\\_1](https://www.subrei.gob.cl/docs/default-source/acuerdos/ama/capitulo-17-inversion.pdf?sfvrsn=b6b3992d_1).

Sources: (n.d.<sup>[97]</sup>), Mexico-EU Association Agreement, <https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/mexico/eu-mexico-agreement/agreement-principle>; (n.d.<sup>[98]</sup>), Mercosur-EU Association Agreement, [https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/mercosur/eu-mercosur-agreement/text-agreement\\_en](https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/mercosur/eu-mercosur-agreement/text-agreement_en); (2023<sup>[99]</sup>), Chile-EU Advanced Framework Agreement, <https://www.subrei.gob.cl/acuerdos-comerciales/modernizacion-ue-chile/cap%C3%ADtulos>.

Beyond reflecting the signatories' commitment to promote RBC with businesses, some RBC clauses included in LAC countries' trade and investment agreements also contain an undertaking by the signatories to cooperate on RBC. This implies exchanging information, experiences, and best practices in the field. This cooperation commitment is present in 13 of the 66 LAC trade and investment agreements that include RBC clauses. For example, under the recently signed Ecuador–China FTA, the signatories commit to cooperate and develop joint initiatives to promote CSR and RBC through the Free Trade Commission that supports the implementation of the FTA.<sup>23</sup> In the TSD chapters of the trade part of the Mercosur–EU Association Agreement and the Mexico–EU Association Agreement, the parties recognise the importance of working together on the dissemination and implementation of internationally agreed instruments on RBC.<sup>24</sup> More specifically, through the chapters on energy and raw materials of the Chile–EU Advanced Framework Agreement and the Mexico–EU Association Agreement, the parties commit to cooperate in the area of energy and raw materials with a view to promoting RBC in accordance with the MNE Guidelines and the OECD Due Diligence Guidance.<sup>25</sup>

The inclusion of these RBC clauses in the trade and investment agreements concluded by LAC countries has various effects that contribute to promote and enable RBC in the region. On the one hand, the RBC clauses acknowledge governments' role in promoting RBC and encouraging the adoption of responsible business practices by companies operating in their territories. They also constitute a basis to promote intergovernmental cooperation on RBC. A noticeable example is the RBC clause of the Pacific Alliance Additional Protocol in accordance to which the signatories commit to identify and share best practices to implement the MNE Guidelines in order to maximise the contribution of multinational enterprises to sustainable development.<sup>26</sup> On the basis of this cooperation commitment, Chile, Colombia, Mexico and Peru recently created an RBC subgroup in the framework of the Pacific Alliance with a view to constituting a forum to exchange best practices on the promotion of RBC. Likewise, based on the RBC clause and the sustainability provisions of the Mercosur's Cooperation and Facilitation Investment Protocol, the Working Subgroup 12 on Investment of the Mercosur (SGT No. 12) recently put forth a proposal for a Recommendation on cooperation and promotion of RBC in the regional bloc (Mercosur, 2023<sup>[100]</sup>).<sup>27</sup> This Recommendation was approved in December 2023 by the Common Market Group of the Mercosur, which instructed the SGT No. 12 to start implementing it (Mercosur, 2023<sup>[101]</sup>). The Recommendation aims to promote cooperation in the framework of the SGT No. 12 between government entities that have competences to deal with topics related to RBC, and notably in the areas covered by the MNE Guidelines. For this purpose, it foresees different types of cooperation activities on RBC (Mercosur, 2023<sup>[100]</sup>). This includes the development of guidelines on RBC for the Mercosur based on international instruments on RBC, which was underway at the time of writing (Mercosur, 2024<sup>[102]</sup>).

On the other hand, by “speaking to businesses”, these clauses can influence business conduct and promote the adoption of responsible business practices. They not only send a message to local and foreign businesses involved in trade and investment on the governments' expectations on RBC. In certain cases, they also highlight the specific RBC principles and standards that they should observe, thereby concretely encouraging companies to align their practices. The Brazil–Chile CFIA, for example, provides that



“investors and their investment shall develop their best efforts to comply with the [MNE Guidelines], in particular: (a) [t]o contribute to the achievement of economic, social and environmental matters with a view to achieving sustainable development; (b) [r]espect internationally recognized human rights of persons involved in the activities of the enterprise [...]”<sup>28</sup> The RBC clause contained in the investment chapter of the Chile–EU Advanced Framework Agreement is even more specific in relation to due diligence, highlighting the importance that investors conduct due diligence to address the adverse impacts of their investments.<sup>29</sup> In a similar fashion, the RBC clause of the Mercosur–Singapore FTA’s investment chapter also recognises the importance that companies implement due diligence to identify and address adverse impacts in their operations, supply chains and other business relationships.<sup>30</sup>

# **4** Role of LAC NCPs in furthering the inclusion of responsible business conduct considerations in trade and investment policies and agreements

NCPs can support the efforts of their governments to enhance policy coherence for RBC. The LAC NCPs are well positioned to do so, in particular to promote the use of trade and investment policies and agreements as a lever to encourage RBC. Their institutional arrangements have allowed most of them to start playing this support role in recent years.

## **4.1. NCPs' role to promote policy coherence for responsible business conduct**

As mentioned above, NCPs have two main responsibilities: (i) promoting the awareness and uptake of the MNE Guidelines and (ii) contributing to the resolution of issues that arise in relation to their implementation in their capacity as non-judicial grievance mechanisms. In addition to this, NCPs may also provide support to efforts by their government to develop, implement and foster coherence of policies to promote RBC. In light of the increasing number of legislations, regulations, policies and initiatives relevant to RBC, NCPs have a key role to play to enhance coherence, alignment and harmonisation. As experts in the field of RBC with in-depth knowledge of the MNE Guidelines and the related Due Diligence Guidance, they can train and build public officials' capacity on the various aspects of RBC, the different OECD RBC instruments, and the importance of integrating RBC considerations in their work areas. Most importantly, they can act as counsellor to the different ministries and government entities seeking to mainstream RBC in their respective laws, regulations, policies, and initiatives, and provide advice on their design, revision, and/or implementation.

Following the 2023 update of the MNE Guidelines, the Implementation Procedures acknowledge the role that NCPs may, in coordination with relevant government entities, play to support their government's efforts to promote policy coherence for RBC, taking into account their capacities and priorities.<sup>31</sup> The OECD Recommendation on the Role of Government in Promoting RBC also contains several guiding principles on the role of NCPs in the promotion of policy coherence for RBC. On a general note, it recommends that governments periodically assess the adequacy of their NCPs' institutional arrangements and the human and financial resources available to them, with a view to enabling them to play an important role in promoting policy coherence for RBC.<sup>32</sup> More specifically, it recommends that governments support NCPs in fostering policy coherence, notably by informing government entities of their statements and reports related to specific instances relevant to their policies and programmes.<sup>33</sup> In the same vein, it also

encourages governments to take into account the good faith engagement of companies in the context of NCP specific instances when reviewing eligibility for government support and services, such as trade advocacy, economic diplomacy, or other benefits.<sup>34</sup>

Over recent years, a growing number of NCPs have taken action to promote policy coherence for RBC at a general level. For instance, various NCPs have assisted their governments in the development of domestic RBC-related legislation or participated in the work related to the development of such legislation at the regional level. Some NCPs have also contributed to the formulation and/or the implementation of National Action Plans on Business and Human Rights or RBC (NAPs) (OECD, 2023, p. 17<sup>[103]</sup>; OECD, 2020, pp. 25-26<sup>[104]</sup>; OECD, 2023, pp. 46-47<sup>[105]</sup>). In 2023, 25% of NCPs (i.e. 13 out of 51) reported to the OECD Secretariat being involved in the development and/or implementation of NAPs (OECD, Forthcoming<sup>[7]</sup>). In fact, in 85% of the countries in which a NAP is in place or in development, the NCP of the country at stake has been involved (OECD, Forthcoming<sup>[7]</sup>). This led the ministers and representatives from 50 adherent countries, and the European Union, to recognise the NCPs' achievements in informing government policies on RBC in the Declaration on Promoting and Enabling Responsible Business Conduct in the Global Economy adopted at the 2023 OECD Ministerial Meeting on RBC (OECD, 2023<sup>[106]</sup>).

These actions in favour of policy coherence for RBC are often facilitated by NCPs' institutional arrangements. A number of NCPs across the global network are set up as inter-governmental platforms comprised of representatives from various ministries and government entities. This promotes collaboration and synergies between different entities with competences relevant to RBC. In 2023 and 2022, approximately half of the NCPs of the global network reported being established either as an inter-agency NCP or a multipartite NCP involving different government entities. More generally, 80% of NCPs included more than one government entity in their structure (OECD, 2023, pp. 31-32<sup>[105]</sup>; OECD, Forthcoming<sup>[7]</sup>).

Furthermore, NCPs are increasingly engaging specifically with some policy communities and government entities to mainstream RBC in their policy areas. In 2023, 65% of NCPs (i.e. 33 out of 51) reported to the OECD Secretariat engaging across government in different contexts and in relation to various policy areas (OECD, Forthcoming<sup>[7]</sup>). Trade and investment are among these policy areas. Over recent years, several NCPs have sought to build coherence between trade and investment and RBC, notably through awareness-raising, information sharing, or capacity-building activities, as well as by participating in trade and investment policymaking or negotiations (see Box 13).

### Box 13. Synergies between NCPs and government entities in charge of trade and investment to promote RBC

Among the global network of NCPs, there are various examples of NCPs that seek to engage with trade and investment officials to promote policy coherence for RBC and encourage the adoption of responsible business practices through trade and investment policies and agreements.

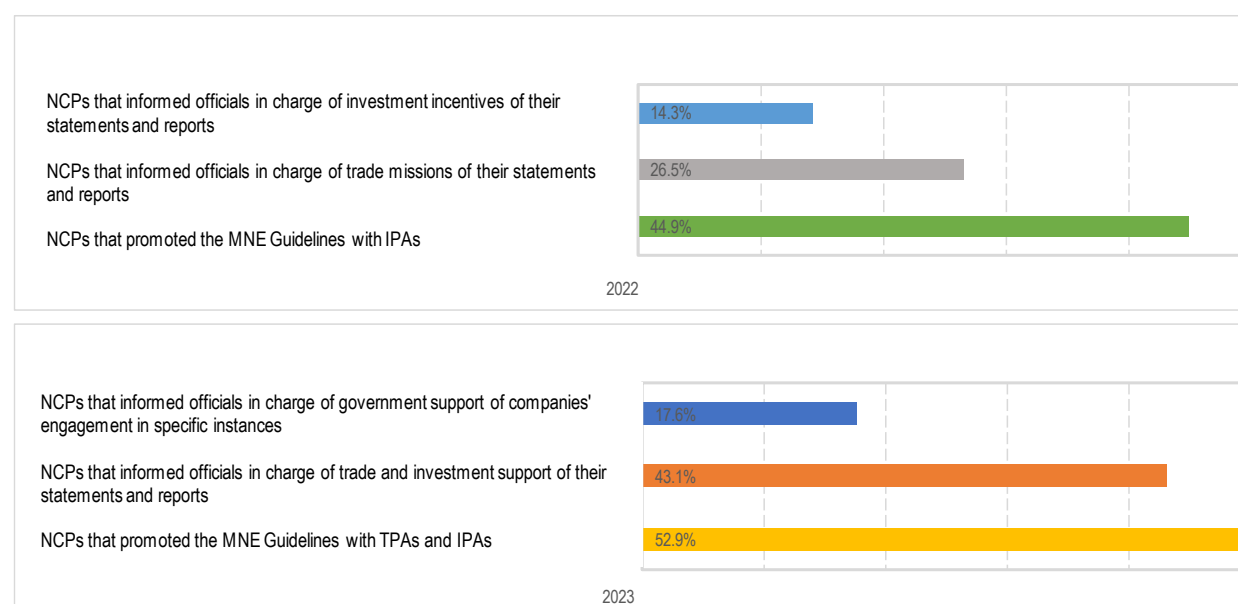
Figure 10. Examples of interactions between NCPs and trade and investment officials

<b>AUSTRALIA</b>	The Australian NCP worked with the Department of Foreign Affairs and Trade to incorporate RBC in the training programme for Australian diplomats, encouraging them to raise awareness about the MNE Guidelines in their interactions with businesses, and to include them on Australian diplomatic missions' websites.	<b>AUSTRIA</b>	The Austrian NCP regularly informs officials responsible for trade missions and the Austrian Export Credit Agency about its activities and its statements and reports related to specific instances.
<b>CZECHIA</b>	The Czech NCP is consulted by officials of the Ministry of Industry and Trade, as well as other responsible Ministries, in the context of negotiations of instruments of relevance for RBC, such as the provisions on trade and sustainable development of free trade agreements.	<b>IRELAND</b>	The Irish NCP provided support to the constitution and functioning of the RBC Coordination Group of the Ministry of Enterprise, Trade and Employment, which brings together officials from across the Ministry that work on topics of relevance for RBC, including trade promotion, in order to share information and knowledge on RBC.
<b>SWITZERLAND</b>	The Swiss NCP regularly takes part in trade and investment agreements negotiations and, when necessary, provides advice in relation to the negotiations of text relevant to RBC, such as trade and sustainable development provisions, and seeks to include references to OECD RBC instruments therein.	<b>UNITED KINGDOM</b>	The UK NCP has been engaging and collaborating with the officials in charge of trade negotiations in the country with a view to promoting policy coherence for RBC across government.

Sources: Government of Austria (2018<sup>[107]</sup>), National Contact Point 2018 Report to the OECD: Austria, <https://www.bmaw.gv.at/en/Topics/International/OECD-Guidelines-for-Multinational-Enterprises-and-the-Austrian-NCP/Activities-Austrian-NCP.html>; Council of Europe (2018<sup>[108]</sup>), Germany - Responsible Business Conduct in Trade Missions, <https://www.coe.int/fr/web/human-rights-intergovernmental-cooperation/-/responsible-business-conduct-in-trade-missions>; OECD (2019<sup>[109]</sup>), Annual Report on the OECD Guidelines for Multinational Enterprises 2018, <http://mneguidelines.oecd.org/2018-Annual-Report-MNE-Guidelines-EN.pdf>; Government of Ireland (2023<sup>[110]</sup>), Annual Report 2022 of the Department of Enterprise, Trade and Employment, <https://enterprise.gov.ie/en/publications/publication-files/dete-annual-report-2022.pdf>; Government of Ireland (2023<sup>[111]</sup>), Ministerial Brief December 2022 of the Department of Enterprise, Trade and Employment, <https://enterprise.gov.ie/en/publications/publication-files/department-brief-for-minister-december-2022.pdf>; OECD (2023<sup>[112]</sup>), OECD Guidelines for Multinational Enterprises National Contact Point Peer Reviews: Czechia, <https://mneguidelines.oecd.org/ncps/national-contact-point-peer-reviews-czechia.pdf>; Government of Australia (2023<sup>[113]</sup>), NCP Annual Reporting Questionnaire 2022, <https://ausncp.gov.au/sites/default/files/2023-06/2022-annual-report-oecd.pdf>; Government of Switzerland, (2020<sup>[114]</sup>), Position et plan d'action du Conseil fédéral concernant la responsabilité des entreprises à l'égard de la société et de l'environnement – État de la mise en œuvre 2017-2019 et plan d'action 2020-2023, [https://www.seco.admin.ch/dam/seco/en/dokumente/Aussenwirtschaft/Wirtschaftsbeziehungen/CSR/csr-aktionsplan\\_2020\\_2023\\_bundesrats.pdf.download.pdf/CSR\\_action\\_plan\\_2020-2023\\_of\\_Federal\\_Council\\_french.pdf](https://www.seco.admin.ch/dam/seco/en/dokumente/Aussenwirtschaft/Wirtschaftsbeziehungen/CSR/csr-aktionsplan_2020_2023_bundesrats.pdf.download.pdf/CSR_action_plan_2020-2023_of_Federal_Council_french.pdf); Swiss Export Risk Insurance (2017<sup>[115]</sup>), SERV Guidelines for Reviewing Environmental, Social and Human Rights Issues, [https://www.serv-ch.com/fileadmin/Files/PDF/online-schalter/nachhaltigkeit/Leitlinien\\_Umwelt\\_e.pdf](https://www.serv-ch.com/fileadmin/Files/PDF/online-schalter/nachhaltigkeit/Leitlinien_Umwelt_e.pdf); Government of the United Kingdom (2020<sup>[116]</sup>), 2019 Annual Report on the United Kingdom's National Contact Point for the OECD Guidelines for Multinational Enterprises, <https://www.gov.uk/government/publications/united-kingdoms-national-contact-point-2019-annual-report/annual-report-on-the-united-kingdoms-national-contact-point-for-the-oecd-guidelines-for-multinational-enterprises>.

Some NCPs go even further with initiatives aiming to link access to, or continuity of, government support and services in the field of trade and investment to the observance of RBC principles and standards. A concrete example is that of the Canadian NCP, which is entitled by its Specific Instance Procedures to recommend withdrawal of actual and future trade support to Canadian companies that do not participate in the NCP process or that do not engage in good faith or constructively in such process (Government of Canada, 2022<sub>[117]</sub>).<sup>35</sup> Similarly, the brochure of the German NCP on the specific instance process indicates that the lack of constructive participation by companies in this process can be taken into account by the government when granting trade support or allowing participation in trade missions (Government of Germany, 2021<sub>[118]</sub>). These types of actions taken by NCPs to build linkages between RBC and trade and investment seems to reflect a growing trend. In 2022 and 2023, a significant percentage of NCPs reported to the OECD Secretariat having promoted the MNE Guidelines with their trade and promotion agencies. They also reported having engaged with trade and investment officials and informed them of their relevant statements and reports, and of companies' engagement in specific instances (see Figure 11).

**Figure 11. NCP engagement with trade and investment officials (2022-23)**



Source: compiled by the OECD Secretariat based on the answers by 49 NCPs to the 2022 NCP Annual Questionnaire and by 51 NCPs to the 2023 NCP Annual Questionnaire.

## 4.2. LAC NCPs' involvement in trade and investment policymaking and negotiations

The seven NCPs of the LAC region that are part of the RBCLAC Project<sup>36</sup> are particularly well placed to promote RBC through trade and investment policies and agreements. Provided that they can function autonomously and guarantee impartiality in the fulfilment of their mandate (OECD, 2022<sub>[119]</sub>), their location constitutes an advantage in this regard, as all of them are fully or partially located within government entities that have competences related to trade and/or investment. More precisely, three out of these seven LAC NCPs are located within entities in charge of investment promotion and facilitation policies. This is the case in Brazil, Mexico, and Peru. The four other NCPs – in Argentina, Chile, Colombia, and Costa Rica – are located within government entities responsible for trade and/or investment agreements (see Figure 12).



Figure 12. Location of LAC NCPs in government



Source: compiled by the OECD Secretariat based on publicly available information and answers to the 2023 NCP Annual Questionnaire.

Moreover, the institutional arrangements of most LAC NCPs can support the promotion of policy coherence for RBC. Four out of the seven NCPs in the region have a government advisory body involving representatives of several ministries and government entities (see Table 4 and Annex B for more details). Government advisory bodies are useful mechanisms to ensure that NCPs have access to the required expertise to fulfil their mandate in relation to all the different issues that may arise in promotional activities or when acting as non-judicial grievance mechanisms (OECD, 2022, p. 7<sub>[120]</sub>; OECD, Forthcoming<sub>[7]</sub>). They can also support the role of NCPs as agents of policy coherence and guarantee alignment and harmonisation between the actions taken across government to promote and enable RBC. By facilitating the communication and the coordination of the NCPs with officials from ministries and government entities that have competences in policy areas relevant to RBC, government advisory bodies can support this alignment and harmonisation and contribute to the mainstreaming of RBC principles and standards in relevant government policies and initiatives, including in the field of trade and investment.

In addition, the fact that four out of seven NCPs in the LAC region have stakeholder advisory bodies, involving a wide range of representatives from businesses, trade unions, civil society organisations, and the academia, is also pertinent for the promotion of policy coherence for RBC (see Table 4 and Annex B for more details). Stakeholder advisory bodies can help NCPs become aware of RBC issues related to other policy areas and/or of inconsistencies in laws and policies that create barriers to the implementation of RBC principles and standards.

The NCPs of the region are generally aware of their role regarding the promotion of policy coherence for RBC and their ability to advance RBC through trade and investment. In the survey on the topic of RBC in trade and investment carried out by the OECD Secretariat with LAC NCPs in the context of the preparation of this report, all the NCPs unanimously agreed that the services and support provided to exporters and investors in the framework of trade and investment promotion and facilitation policies should be used to promote RBC. They also acknowledged that their countries should make better use of these policies to further promote RBC.

**Table 4. Characteristics of LAC NCPs relevant for the promotion of RBC through trade and investment policies and agreements**

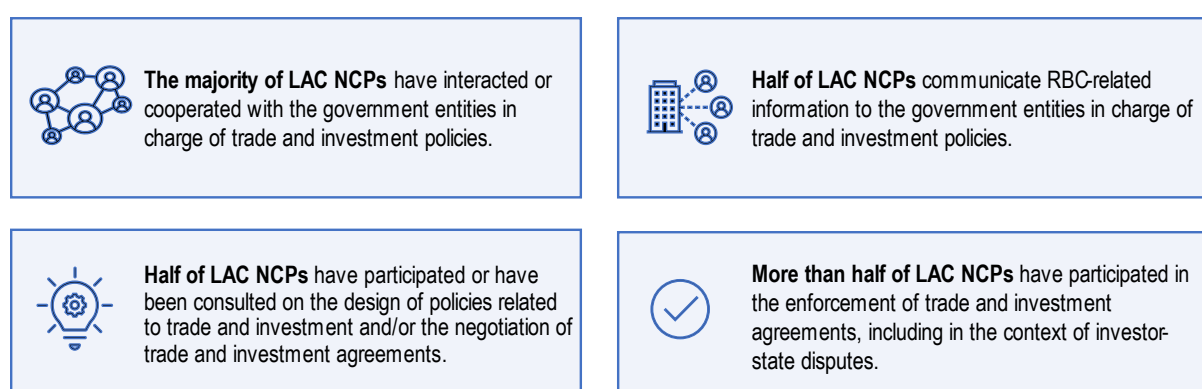
Country	Located within entity responsible for trade and/or investment promotion and facilitation	Located within entity responsible for trade and/or investment agreements negotiations	Government advisory body	Stakeholder advisory body
Argentina		▪	▪	▪ <sup>1</sup>
Brazil	▪	▪		
Chile		▪	▪	▪
Colombia	▪	▪		▪
Costa Rica	▪	▪	▪	▪
Mexico	▪	▪	▪	
Peru	▪			

Note: 1. Argentina's advisory body (the *Consejo Consultivo*) is comprised of both government and stakeholders' representatives, including businesses, trade unions, civil society organisations and the academia.

Source: compiled by the OECD Secretariat based on publicly available information and answers to the 2023 NCP Annual Questionnaire.

The institutional arrangements of LAC NCPs, as well as their awareness of their ability to promote RBC through trade and investment, have allowed most of them to start playing a role in this regard. For instance, the Action Plan for 2023-2026 of the Brazilian NCP, titled "Integrar", acknowledges the role that NCPs play and includes an axe on RBC policies and practices that seeks to enhance policy coherence, including in relation to trade and investment policies (Government of Brazil, 2023<sub>[121]</sub>). More generally, in the context of the survey mentioned above, most NCPs of the region reported already having taken action, or having been involved in initiatives, contributing to some extent to enhance policy coherence for RBC and encourage the adoption of responsible business practices through trade and investment (see Figure 13).

**Figure 13. LAC NCPs' actions to enhance policy coherence and encourage RBC through trade and investment**



Source: compiled by the OECD Secretariat based on answers by LAC NCPs to the survey carried out for the preparation of the present report.

There are thus various examples of concrete measures taken by LAC NCPs to communicate and coordinate with officials responsible for trade and investment. For instance, in 2022, the Brazilian NCP reported to the OECD Secretariat informing officials responsible for trade missions of its relevant statements and reports and the Chilean NCP reported doing the same with officials responsible for trade and investment incentives. Moreover, in 2023, the NCPs of Brazil, Chile and Colombia reported that they promoted the MNE Guidelines with their trade and investment promotion agencies. In fact, in recent years,

almost all NCPs of the region have dedicated efforts to start building coherence between RBC and trade and investment and including RBC considerations in trade and investment promotion and facilitation policies and trade and investment agreements (see Figure 14).

**Figure 14. Examples of LAC NCPs engagement with trade and investment officials and involvement in trade and investment policymaking and negotiations**

<b>BRAZIL</b>	In Brazil, the NCP – located in the Undersecretariat for Foreign Investment – recently adopted an Action Plan, titled "Integrar", which includes among its three axes, an axe on RBC policies and practices aimed at promoting policy coherence for RBC. Several of the actions foreseen under this axe pertain to trade and investment policies. For example, one of the actions consists, within the framework of the Working Subgroup 12 on Investment of the Mercosur (SGT No. 12), in developing and negotiating a proposal of a recommendation aimed at developing and integrating RBC policies and practices at the regional level (see Section 3.2). A few years ago, the NCP also developed a NAP on RBC ( <i>Plano de Ação em Conduta Empresarial Responsável</i> , PACER). This NAP aims to promote policy coherence and suggest new policies based on the OECD RBC instruments. It describes some of the actions taken to promote RBC through <i>inter alia</i> trade and investment agreements and trade promotion. At the time of writing, the PACER was reportedly in the process of being updated.
<b>CHILE</b>	In Chile, the NCP – located in the Undersecretariat of International Economic Affairs that is in charge of the negotiations of trade and investment agreements – has reported that, although it is not directly involved in these negotiations, it has been engaging with the officials responsible for the negotiations, and in particular the trade and sustainable development division, with a view to promote the inclusion of RBC considerations in these agreements and overall policy coherence.
<b>COLOMBIA</b>	In Colombia, the NCP – located in the Directorate of Foreign Investment that is responsible for the negotiation of investment agreements – has reported having been involved in the discussions regarding the revision of the country's investment agreements and having pushed for the inclusion of express references to RBC, due diligence and the MNE Guidelines in Colombia's new investment agreement model.
<b>COSTA RICA</b>	In Costa Rica, the NCP – located in COMEX, the government entity in charge of negotiating trade and investment agreements – has reported having adopted a strategy to promote policy coherence for RBC, which implies engaging closely with other COMEX officials. As a result, the NCP is regularly consulted by the teams in charge of negotiating trade and investment agreements and it can submit inputs with respect to any draft agreement in order to promote coherence with the MNE Guidelines. Moreover, the NCP may assist with the implementation of sustainability provisions and RBC clauses in trade and investment agreements, in particular by providing relevant information in the context of dispute settlement.
<b>MEXICO</b>	In Mexico, the NCP has reported that, following OECD recommendations in this regard, it started sharing information on RBC and materials on the OECD RBC instruments with investment officials of the General Directorate of Foreign Investment in order to raise their awareness about RBC and the main RBC principles and standards.
<b>PERU</b>	In Peru, the NCP – which is located in Proinversión, the country's IPA – has reported that it has been involved in the discussions pertaining to the elaboration of Peru's new model investment agreement and that this model includes an RBC clause that references the MNE Guidelines.

Note: compiled by the OECD Secretariat based on information shared by LAC NCPs in the context of the preparation of the present report.

These actions and initiatives, which contribute to promote policy coherence for RBC, constitute relevant examples for the global network of NCPs. Nonetheless, despite these initial efforts, LAC NCPs could play an even more active role in furthering the inclusion of RBC considerations in trade and investment policies and agreements, taking into account their capacities and priorities.

In fact, in the context of the survey on the topic of RBC in trade and investment carried out by the OECD Secretariat with LAC NCPs, the vast majority of the NCPs themselves reported considering that they could play a more central role in the promotion of RBC through trade and investment. When asked about the key challenges in this regard, half of them indicated that the lack of awareness of RBC among relevant government entities and the lack of technical capacity of these entities are the main challenges. NCPs also noted that insufficient financial and human resources, as well as the lack of political support and coordination and cooperation, constitute important challenges as well.

The challenges that LAC NCPs face to further promote policy coherence for RBC have also been underlined in the context of their recent peer reviews. The peer reviews of the NCPs of Argentina, Brazil,

Chile, and Peru all concluded that they could play a more significant role in the promotion of policy coherence for RBC. In particular, the reviews highlighted that this role could be enhanced if the NCPs continued building on their efforts to gain visibility across government and to engage and cooperate with relevant ministries and government entities (OECD, 2019, pp. 5, 21<sup>[122]</sup>; 2022, pp. 7-8, 26<sup>[123]</sup>; 2018, p. 18<sup>[124]</sup>; 2023, pp. 8, 24<sup>[125]</sup>).

# 5 Conclusion

Governments have an important role to play in the promotion of sustainable and responsible business practices. Through government action, they can create an enabling environment to drive, support, and promote such practices. Trade and investment policies and agreements are a key component of this enabling environment. Not only do they serve to raise-awareness and build capacity on RBC among a wide array of companies engaged in trade and investment. They also contribute to the development, strengthening, and implementation of legal and policy frameworks in areas covered by the MNE Guidelines, such as human and labour rights, the environment, or anti-corruption, which lay the foundation of an enabling environment for RBC. As such, trade and investment policies and agreements constitute a lever to influence businesses' conduct so that they enhance their contribution to sustainable development and address potential adverse impacts on people, planet, and society.

In the LAC region, governments have started to play a role in the promotion of RBC and, in particular, to use their trade and investment policies and agreements to encourage the adoption of sustainable and responsible business practices. The stocktaking carried out for the purpose of the present report shows that most LAC countries covered by the report are including RBC considerations in these policies and agreements through different approaches. Trade and investment promotion and facilitation policies are increasingly geared towards sustainability, with a view to enhancing local exporters' access to and competitiveness on foreign markets and attracting responsible investors that can support sustainable development. Trade and investment agreements are also more and more thought of as policy tools that can not only boost trade and investment flows but do so in a sustainable and responsible way. The actions taken recently by some LAC governments to promote RBC through intergovernmental cooperation mechanisms established on the basis of sustainability provisions and RBC clauses included in their trade and investment agreements is a manifestation of this trend.

This evolution over recent years has been driven by the global demand for sustainability and the acknowledgment that government action is needed to address sustainability-related challenges linked to business activity. It also echoes the expectations from LAC countries' main trade and investment partners that companies observe RBC principles and standards in their operations and supply chains and the related legislative developments. As a growing number of countries have adopted or are in the process of adopting legislation related to RBC, more and more export markets and investors are subject to their requirements. In this context, mainstreaming RBC in trade and investment policies and agreements can contribute to position a country as a safe destination to trade with, source from and invest in.

The use of trade and investment policies and agreements as a lever to encourage RBC in LAC could, however, be further strengthened and amplified. In many cases, while relevant initiatives have been developed to promote sustainability and include RBC considerations in trade and investment promotion policies, they do not stem from a multi-year overarching policy or strategy with a clear focus on RBC. Rather, in most cases, they are one-off initiatives developed by government entities on their own and not part of a coordinated approach across government entities in charge of trade and investment matters and policy areas relevant for RBC. Moreover, they are often framed around sustainability in general and tend not to include a due diligence approach to identify and address adverse impacts on people, planet and society. As a result, the integration of RBC considerations in these initiatives could be reinforced, building synergies and enhancing cooperation among relevant government entities.



Likewise, although the trade and investment agreements concluded by LAC countries feature some detailed sustainability provisions and RBC clauses, this treaty practice often fluctuates in approaches and scope, resulting in different degrees of inclusion of RBC considerations. The integration of these provisions and clauses has increased significantly over the last decades in the region, but to varying extents. Whereas some of the sustainability provisions and RBC clauses contained in LAC countries' trade and investment agreements are very detailed and can have several effects of relevance to RBC, others are much more succinct and their potential to have any effect on the promotion of RBC is limited. This presents a valuable opportunity to reinforce the use of trade and investment agreements as a lever to encourage sustainable and responsible business practices in the region.

LAC NCPs are particularly well positioned to support the promotion of RBC through trade and investment policies and agreements. Their institutional arrangements represent a great advantage in this regard, and they are generally well aware of their ability to do so. In fact, most of them have started engaging and cooperating with LAC trade and investment officials and taking action for that purpose.

Going forward, LAC NCPs could play a greater role in the promotion of RBC through trade and investment policies and agreements, taking into account their capacities and priorities. To this end, the governments of the LAC region should seek to help NCPs address the challenges they reported facing in their efforts to promote policy coherence for RBC. This includes insufficient financial and human resources, as well as a lack of political support and coordination. They are also linked to insufficient awareness of RBC and technical capacity among relevant government entities. These challenges could be addressed, and the role of LAC NCPs strengthened, in different ways:

- LAC NCPs could build on their role in the field of RBC within governments and their knowledge of the MNE Guidelines and the related Due Diligence Guidance, as well as the Recommendation on the Role of Government to Promote RBC, to raise awareness among relevant government officials about RBC and the relevance of the OECD RBC instruments for their work. In particular, they could seek to train and build the technical capacity of trade and investment officials on the various aspects of RBC and how to integrate RBC considerations in their policy areas.
- The co-operation and co-ordination between LAC NCPs and trade and investment officials responsible for relevant policymaking and negotiations could be enhanced, while preserving the NCPs' autonomy. As NCPs in the LAC region are fully or partially located within government entities that have competences related to trade and/or investment, co-ordination mechanisms could be easily developed, whilst paying attention to the need to guarantee the NCPs' impartiality in the fulfilment of their mandate. This would help ensuring that NCPs are more systematically involved in the design of future trade and investment policies and agreements and can promote the mainstreaming of RBC considerations.
- LAC NCPs could promote the establishment and/or the use of consultation and information-sharing mechanisms with relevant government entities to monitor the integration of RBC considerations in trade and investment policies and agreements. This could also serve to assess existing policies and practices in trade and investment policymaking and negotiations with a view to identifying and addressing potential barriers to policy coherence for RBC.
- Building on good practices already existing in the region, LAC NCPs could also support the implementation of RBC considerations in trade and investment policies, as well as of sustainability provisions and RBC clauses included in LAC countries' trade and investment agreements. Their experience as experts in the field of RBC could prove particularly useful in this context. Similarly, the sharing by LAC NCPs of information on RBC, statements and reports on specific instances, or other pertinent insights, with all relevant government entities could contribute to implementation.

The OECD stands ready to support the governments from the region and LAC NCPs in taking action in these different directions. In the context of the second phase of the RBCLAC Project (2024-2028), the OECD Centre for Responsible Business Conduct will work with LAC governments with a view to furthering the inclusion and implementation of RBC considerations in trade and investment policies and agreements.

The goal will be to promote the exchange of experiences and peer learning based on the good practices identified in the stocktaking carried out for the present report, as well as similar analytical work to be carried out by the OECD in other regions. Future activities could also aim at enabling and enhancing governmental cooperation on the promotion of RBC and identify aspects where further analysis might be needed to keep advancing RBC through trade and investment policies and agreements.

# Notes

<sup>1</sup> OECD (2022), Recommendation on the Role of Government in Promoting Responsible Business Conduct [OECD/LEGAL/0486], <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0486#mainText>.

<sup>2</sup> See United Nations (2011), United Nations Guiding Principles on Business and Human Rights, I. The State duty to protect human rights, [https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinessshr\\_en.pdf](https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinessshr_en.pdf).

<sup>3</sup> OECD (2023), OECD Guidelines for Multinational Enterprises on Responsible Business Conduct, OECD Publishing, Paris, Preface, para. 3, <https://doi.org/10.1787/81f92357-en>.

<sup>4</sup> The Project “Promoting Responsible Business Conduct in Latin America and the Caribbean” (RBCLAC Project), which is funded by the European Union (EU), is implemented by the OECD together with the International Labour Organisation (ILO) and the Office of the United Nations High Commissioner for Human Rights (OHCHR). It aims at promoting smart, sustainable, and inclusive growth in the LAC region by supporting responsible business practices in line with the international instruments on RBC of the three implementing organisations. The RBCLAC Project, which was initially a four-year project that started in 2019, has been extended in a transitional phase launched in January 2023, before the start of a second phase in 2024. The activities of the OECD in the transitional phase are organised around three main components: (i) supporting business capacity to conduct due diligence in priority sectors; (ii) strengthening the role of government in promoting RBC; and (iii) fostering workers’ organisations and stakeholder engagement for RBC.

<sup>5</sup> The analysis in the present report covers trade and investment agreements signed by LAC countries at the time the background analysis was carried out (i.e. until spring 2024), to the exception of agreements with the EU whose negotiations have concluded, but have yet to be signed (i.e. the trade parts of the Mercosur-EU Association Agreement and the Mexico-EU Association Agreement). The expression “trade and investment agreements” in the report refers to a wide range of bilateral, regional and plurilateral agreements relating to trade and foreign investment and related issues. The term “investment agreements” covers bilateral investment treaties (BITs) and investment chapters contained in free trade agreements (FTAs).

<sup>6</sup> The OECD Secretariat received the support of the International Economic Law Clinic of the University of Buenos Aires’s Law School in the framework of the TradeLab to carry out part of this desk-based research.

<sup>7</sup> OECD (2022), Recommendation on the Role of Government in Promoting Responsible Business Conduct, para. IV(3), <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0486#mainText>.

<sup>8</sup> OECD (2022), Recommendation on the Role of Government in Promoting Responsible Business Conduct, para. III(5), <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0486#mainText>.

<sup>9</sup> Investment promotion can be achieved through image building, which aims at promoting the positive image of a country and branding it as a profitable investment destination, and investment generation, which consists in marketing techniques aimed at specific industries, activities and markets. See OECD (2018), Investment Insights – Towards an International Framework for Investment Facilitation, p. 3,

<https://www.oecd.org/investment/Towards-an-international-framework-for-investment-facilitation.pdf>; Volpe Martincus, Ch.; Sztajerowska, M. (2019), How to solve the investment promotion puzzle: a mapping of investment, p. 56, <http://dx.doi.org/10.18235/0001767>.

<sup>10</sup> Investment facilitation activities include investor servicing, which aims at providing support to prospective investors in order to facilitate their establishment, but also aftercare, which consists in assisting established investors with post-establishment challenges so as to retain them and encourage their expansion. See OECD (2018), Investment Insights – Towards an International Framework for Investment Facilitation, pp. 3-4, <https://www.oecd.org/investment/Towards-an-international-framework-for-investment-facilitation.pdf>.

<sup>11</sup> OECD (2022), Recommendation on the Role of Government in Promoting Responsible Business Conduct, para. III(2), <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0486#mainText>.

<sup>12</sup> OECD (2022), Recommendation on the Role of Government in Promoting Responsible Business Conduct, para. III(1), <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0486#mainText>.

<sup>13</sup> It should be noted that, as far as investment agreements are concerned, other kinds of provisions can also potentially have a bearing on RBC. This is, in particular, the case of provisions requiring that investments be made in accordance with domestic law in order to benefit from the coverage of the agreement. General protections, such as provisions on granting “fair and equitable treatment” to covered foreign investors, can affect policy space to regulate business activities. However, as these provisions do not expressly refer to sustainability issues, such as respect for human rights, the promotion of labour standards, the protection of the environment, or the fight against corruption, or contain an express mention of RBC or CSR, they are not included in the present analysis. For a discussion of these provisions, see Gaukrodger, D. (2021), “Business responsibilities and investment treaties”, OECD Working Papers on International Investment, No. 2021/02, OECD Publishing, Paris, <https://doi.org/10.1787/4a6f4f17-en>; Gaukrodger, D. (2017), Addressing the balance of interests in investment treaties: The limitation of fair and equitable treatment provisions to the minimum standard of treatment under customary international law, OECD Working Papers on International Investment, 2017/03, <https://www.oecd-ilibrary.org/docserver/0a62034b-en.pdf?expires=1614962636&id=id&accname=ocid84004878&checksum=99194E7B92808FC3B402529A24670527>. See also Pohl, J. (2018), Societal benefits and costs of International Investment Agreements: A critical review of aspects and available empirical evidence, OECD Working Papers on International Investment, No. 2018/01, OECD Publishing, Paris, <https://doi.org/10.1787/e5f85c3d-en>; Dolzer, R. (2005), The Impact of International Investment Treaties on Domestic Administrative Law, New York University Journal of International Law and Policy 37, No. 4, pp. 953-971, <https://www.iilj.org/wp-content/uploads/2016/08/Dolzer-The-Impact-of-International-Investment-Treaties-on-Domestic-Administrative-Law-2005.pdf>.

<sup>14</sup> In some LAC countries, trade and investment promotion is handled by a single agency. This is the case in Argentina, Brazil, Costa Rica and Ecuador. By contrast, Chile, Panama and Peru have separate agencies responsible for trade and investment promotion respectively. In Mexico, there is no specific agency in charge of trade and investment promotion, which are under the shared responsibility of the Ministry of Economy (*Secretaría de Economía*) and the Ministry of Foreign Affairs (*Secretaría de Relaciones Exteriores*). The Unit for Global Economic Intelligence (*Unidad de Inteligencia Económica Global*), which is in charge of trade and investment promotion in the Ministry of Economy, also hosts the Mexican NCP.

<sup>15</sup> According to information provided by the Government of Ecuador, Pro Ecuador is the government entity responsible for implementing the country’s export (and investment) promotion policies.

<sup>16</sup> As of May 2023, PROCOMER has become the official IPA of Costa Rica. See PROCOMER (2023), Press release: COMEX replantea abordaje de atracción de IED para que beneficios lleguen a más sectores y regiones, <https://www.procomer.com/noticia/comex-replantea-abordaje-de-atraccion-de-ied-para-que-beneficios-lleguen-a-mas-sectores-y-regiones/>.

<sup>17</sup> 2019 USMCA, Chapter 23 (Labour); Article 23.6 (Forced or Compulsory Labour).

<sup>18</sup> Calculated by the OECD Secretariat based on an analysis of the content of the trade and investment agreements concluded by the nine LAC countries part of the RBCLAC Project.

<sup>19</sup> It should be noted, however, that sustainability provisions are not always successfully used to mitigate legal risks. For instance, in the *Eco Oro Minerals Corp. v. Colombia* case, a Canadian mining company claimed that the measures taken by Colombia to protect the Santurbán Páramo, a high mountain ecosystem, constituted an indirect expropriation of its investment and were in breach of its legitimate expectations. The arbitral tribunal dismissed the expropriation claim by relying on a sustainability provision of the Canada-Colombia FTA under which non-discriminatory measures taken in good faith to protect legitimate public welfare objectives, such as the protection of the environment, do not constitute indirect expropriation. However, the tribunal found that the measures taken by Colombia were in breach of the company's legitimate expectations to a stable and predictable regulatory framework. It also dismissed Colombia's argument that it should not be required to pay compensation based on another sustainability provision containing a general exception for measures taken by a signatory to protect human, animal or plant life or health and for the conservation of living or non-living exhaustible natural resources. The tribunal interpreted this provision as allowing parties to adopt or enforce such measures but not excluding liability for compensation. See *Eco Oro Minerals Corp. v. Colombia*, ICSID Case No. ARB/16/41, Decision on Jurisdiction, Liability and Directions on Quantum, 9 September 2021, <https://www.italaw.com/sites/default/files/case-documents/italaw16212.pdf>.

<sup>20</sup> 2008 Colombia-Canada FTA, Chapter 8 (Investment), Article 816 (Corporate Social Responsibility), <https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/colombia-colombie/fta-ale/08.aspx?lang=eng>.

<sup>21</sup> 2023 Mercosur-Singapore FTA, Chapter 9 on Investment, Article 9.12 (Responsible Business Conduct), <https://edit.wti.org/document/show/90a55f5d-e629-4727-afb2-6d11fae91f71>.

<sup>22</sup> 2020 Chile-Ecuador FTA, Chapter 16 (Trade and Labour Issues), Article 16.8 (Responsible Business Conduct), <https://edit.wti.org/document/show/0283d464-5b81-46ab-8080-e093534b34d9>.

<sup>23</sup> 2023 China-Ecuador FTA, Chapter 9 (Investment Cooperation), Article 9.4 (Corporate Social Responsibility), <https://edit.wti.org/document/show/b06eafa3-c28e-47e2-98cd-ed1ebc56d00a>.

<sup>24</sup> Mercosur-EU Association Agreement (Trade Part), Chapter on Trade and Sustainable Development, Article 13 (Working together on trade and sustainable development), <https://circabc.europa.eu/rest/download/0ce300c3-3791-4ef8-87f7-50b8e4243745?>; Mexico-EU Association Agreement (Trade Part), Chapter on Trade and Sustainable Development, Article 13 (Working together on trade and sustainable development), <https://circabc.europa.eu/ui/group/09242a36-a438-40fd-a7af-fe32e36cbd0e/library/ec8b7432-1b1a-422a-86c5-7b9ab158694a/details>.

<sup>25</sup> 2023 Chile-EU Advanced Framework Agreement, Chapter 15 on Energy and Raw Materials, Article 15.14 (Cooperation on Energy and Raw Materials), [https://www.subrei.gob.cl/docs/default-source/acuerdos/ama/capitulo-15-energia-y-materias-primas.pdf?sfvrsn=6764ed9c\\_1](https://www.subrei.gob.cl/docs/default-source/acuerdos/ama/capitulo-15-energia-y-materias-primas.pdf?sfvrsn=6764ed9c_1); Mexico-EU Association Agreement (Trade Part), Chapter on Energy and Raw Materials, Article 11 (Cooperation on Energy and Raw Materials), <https://circabc.europa.eu/ui/group/09242a36-a438-40fd-a7af-fe32e36cbd0e/library/200a4030-45b1-46a1-8812-ad757eef961f/details>.

<sup>26</sup> 2014 Pacific Alliance Additional Protocol, Chapter 10 on Investment, Article 10.30 (Social Responsibilities Policies), [\(EDIT\) \(wti.org\)](https://www.wti.org/Pacific-Alliance-Additional-Protocol-(2014)-Electronic-Database-of-Investment-Treaties-(EDIT)).

<sup>27</sup> See 2017 Cooperation and Facilitation Investment (CFIA) Protocol of the Mercosur, Articles 14 (Corporate Social Responsibility), 15 (Measures on Investment and the Fight against Corruption and Illegality), and 16 (Provisions on Investment and Environment, Labour Issues and Health), <https://www.mercosur.int/documento/protocolo-de-cooperacion-y-facilitacion-de-inversiones-intra-mercursos/>.

<sup>28</sup> 2015 Brazil-Chile CFIA, Article 15 (Social Responsibility Policies), Unofficial English text retrieved from: <https://edit.wti.org/document/show/2d6e0e76-61b9-49c3-abea-42b999df4fef>.



<sup>29</sup> 2023 Chile-EU Advanced Framework Agreement, Chapter 17 on Investment, Article 17.24 (Responsible Business Conduct), [https://www.subrei.gob.cl/docs/default-source/acuerdos/ama/capitulo-17-inversion.pdf?sfvrsn=b6b3992d\\_1](https://www.subrei.gob.cl/docs/default-source/acuerdos/ama/capitulo-17-inversion.pdf?sfvrsn=b6b3992d_1).

<sup>30</sup> 2023 Mercosur-Singapore FTA, Chapter 9 on Investment, Article 9.12 (Responsible Business Conduct), <https://www.cancilleria.gob.ar/es/acuerdo-de-libre-comercio-mercosur-singapur/inversiones>.

<sup>31</sup> OECD (2023), OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (MNE Guidelines), OECD Publishing, Paris, <https://doi.org/10.1787/81f92357-en>. According to Section D of the Procedures part of the 2023 version of the MNE Guidelines, “[i]n furthering the effectiveness of the Guidelines, NCPs may, where appropriate and in coordination with relevant government agencies, support efforts by their government to develop, implement, and foster coherence of policies aimed at promoting RBC.” The Commentary on the Procedures for NCPs specifies in its paragraph 55 that “the support provided by or requested from the NCP should take into account their capacities and priorities”.

<sup>32</sup> OECD (2022), Recommendation on the Role of Government in Promoting Responsible Business Conduct, para. II(3), <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0486#mainText>.

<sup>33</sup> OECD (2022), Recommendation on the Role of Government in Promoting Responsible Business Conduct, para. VII(2), <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0486#mainText>. The MNE Guidelines also underline, in the Commentaries on the Implementation Procedures, that “where appropriate, the NCP may inform relevant government agencies of the good faith engagement, or absence thereof, of the parties, and should communicate in a transparent manner with the parties about intended or actual steps in this regard”. See OECD (2023), OECD Guidelines for Multinational Enterprises on Responsible Business Conduct, Commentaries to the Implementation Procedures, para. 44, OECD Publishing, Paris, <https://doi.org/10.1787/81f92357-en>.

<sup>34</sup> OECD (2022), Recommendation on the Role of Government in Promoting Responsible Business Conduct, para. III(5), <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0486#mainText>.

<sup>35</sup> See Government of Canada (2022), Specific Instance Procedures, para. 9.5, <https://www.international.gc.ca/transparency-transparence/national-contact-point-contact-national/procedures.aspx?lang=eng#a9>: “If Canadian companies do not participate in the NCP process, or if the NCP determines that they do not engage in good faith or constructively in the course of or follow-up to the review process, the NCP can recommend the withdrawal of all Trade Commissioner Service support and that Export Development Canada and the Canadian Commercial Corporation also withdraw future support.”

<sup>36</sup> There are in total eight NCPs in the LAC region, including the NCP of Uruguay, which was established in February 2021, after the start of the RBCLAC Project, and is not covered by the present analysis.

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## Annex A. What is responsible business conduct?

The concept of RBC, which is aligned with related notions (see Box A.1) has a two-fold objective. On the one hand, it entails that all enterprises – regardless of their legal status, size, ownership or sector – make a positive contribution to economic, environmental and social progress in the countries in which they operate with a view to enhancing business contribution to sustainable development outcomes. On the other, it implies that enterprises avoid and address adverse impacts on people, the planet and society caused or contributed to by their own activities and/or seek to prevent and mitigate adverse impacts directly linked to their operations, products, or services by a business relationship. As these impacts can cover a range of substantive areas, the scope of RBC is broad and crosscutting. Risk-based due diligence is central to identifying, preventing, and mitigating actual and potential adverse impacts, and accounting how these impacts are addressed, and is thus a key element of RBC.

With the growing demands for better management and integration of environmental and social considerations in supply chains, RBC has become increasingly relevant for the global agenda. It is key to ensuring a resilient, sustainable, and inclusive global economy. By operating responsibly, in line with international RBC principles and standards, businesses can operationalise the SDGs and ensure that they are not undermining them, either through their own operations or through their business relationships. This is particularly critical in today's interconnected markets, where supply chains can span multiple jurisdictions and business cultures (OECD, 2023<sup>[103]</sup>). RBC can also contribute to maximise the private sector's contribution to the SDGs and mobilising the resources necessary for financing the implementation of the 2030 Agenda (OECD, 2016<sup>[126]</sup>).

### Box A.1. Responsible Business Conduct, Corporate Social Responsibility, and Business and Human Rights: how are these concepts related?

Many businesses, governments and stakeholders are familiar with the term Corporate Social Responsibility (CSR), which has historically been used to describe business interactions with society.

Over the last years, CSR has increasingly been used alongside Responsible Business Conduct (RBC) and Business and Human Rights, with some using the terms interchangeably (e.g. the European Union). How do these concepts relate to each other?

They all reflect the expectation that businesses should consider the impact of their operations, supply chains, and business relationships on people, the planet, and society as part of their core business considerations and not as an add-on. This includes the need to avoid and address adverse environmental and social impacts.

A key characteristic of CSR, RBC, and Business and Human Rights is that they refer to corporate conduct beyond simply complying with domestic law and call on business to contribute positively to sustainable development while managing risks and impacts that may result from their activities. These concepts should not be understood to be equivalent to philanthropy.

Source: ILO/OECD/OHCHR (n.d.<sup>[127]</sup>), Responsible Business - Key Messages from International Instruments, <https://mneguidelines.oecd.org/Brochure-responsible-business-key-messages-from-international-instruments.pdf>.

## OECD instruments on responsible business conduct

To promote the adoption of responsible business practices by enterprises, as well as the development of enabling environments that drive, promote and support such practices by governments, the OECD has developed a series of instruments addressed both to businesses and policymakers.

### ***The OECD Guidelines for Multinational Enterprises on Responsible Business Conduct and the National Contact Points for Responsible Business Conduct***

The main instrument aimed at promoting the adoption of RBC practices by businesses developed by the OECD are the MNE Guidelines. These are recommendations jointly addressed by governments to businesses on how to act responsibly. They cover all key areas of potential business responsibility, including disclosure, human rights, employment and industrial relations, environment, bribery and other forms of corruption, consumer interests, disclosure, science, technology and innovation, competition, and taxation.

The MNE Guidelines were first adopted in 1976 and last updated in 2023 to ensure that they remain fit for purpose in light of societal challenges and the evolving context for international business. The 2023 update reflects a decade of experience since the last review in 2011 and seeks to respond to urgent social, environmental and technological priorities facing societies and businesses, including climate change. To date, 51 countries (of which 38 OECD members and 13 additional economies) – including Mexico, Chile, Colombia, Peru, Argentina, Brazil, Costa Rica and Uruguay – have adhered to the OECD Declaration on International Investment and Multinational Enterprises that contains the MNE Guidelines, thereby committing to implement them and encourage their use by enterprises operating in or from their territories.

Adherents to the MNE Guidelines have the legal obligation to set up a NCP to further their effectiveness. NCPs have two main responsibilities. On the one hand, they promote the awareness and uptake of the MNE Guidelines, including by responding to enquiries to make them known among relevant stakeholders and across government entities. On the other hand, they contribute to the resolution of issues that arise in relation to the implementation of the MNE Guidelines in cases called “specific instances”, serving as a non-judicial grievance mechanism. In addition, NCPs may also provide support to efforts by their government to develop, implement and foster coherence of policies to promote RBC.

Up to now, the 51 existing NCPs have organised and participated in over 2500 events with governments, businesses and other stakeholders and have dealt with more than 620 specific instances arising in over 105 countries, thereby playing a critical role in ensuring that the MNE Guidelines are implemented globally by businesses. They have also taken measures to support policy coherence across government for the promotion of RBC (OECD, 2023, p. 17<sub>[103]</sub>).

### ***The OECD Due Diligence Guidance***

The MNE Guidelines recommend that enterprises carry out due diligence to identify, prevent and mitigate actual and potential adverse impacts on people, the planet and society, and to account for how those impacts are addressed. Based on this, the OECD has developed a range of instruments providing guidance on due diligence, with the aim of helping companies operating in different sectors understand and address RBC risks.

The general OECD Due Diligence Guidance for RBC (the OECD Due Diligence Guidance for RBC) aims to promote a common understanding among governments and stakeholders of risk-based due diligence for RBC. The Guidance defines a six-step process for due diligence (see Box A.2), which is relevant for all types of enterprises operating in all countries and sectors of the economy (OECD, 2018<sub>[128]</sub>). As such, it also serves to implement the due diligence recommendations contained in the other two main international

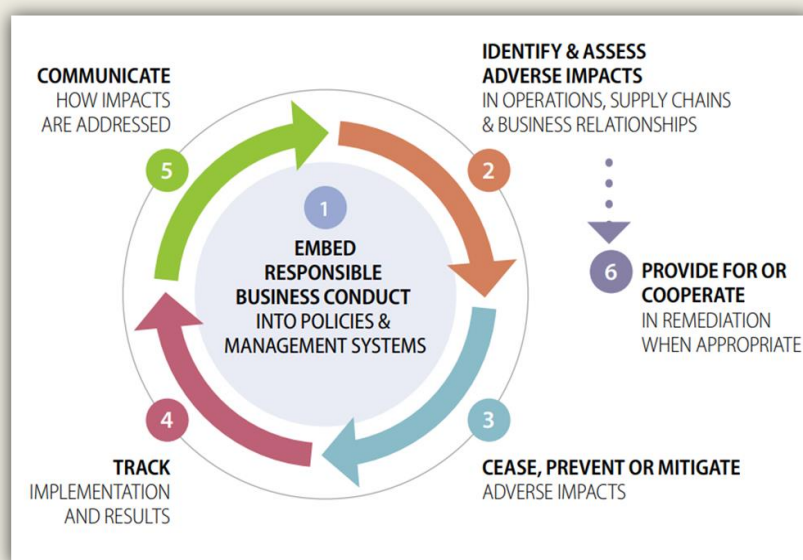
instruments on RBC: the UN Guiding Principles on Business and Human Rights and the ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy.

### Box A.2. The due diligence process and supporting measures

Considering the fact that due diligence should be commensurate with risk and appropriate to a specific enterprise's circumstances and context, the OECD Due Diligence Guidance for Responsible Business Conduct (RBC) establishes a six-step process to conduct due diligence that can be used by any enterprise irrespective of the location or sector of its operations. This process consists in the following six steps:

- *Step 1:* embedding RBC into the enterprise's policies and management systems
- *Step 2:* undertaking due diligence by identifying actual or potential adverse impacts on RBC issues
- *Step 3:* ceasing, preventing or mitigating such impacts
- *Step 4:* tracking implementation and results
- *Step 5:* communicating how impacts are addressed
- *Step 6:* enabling remediation when appropriate

Figure A.1. The six-step due diligence process



Source: OECD (2018<sup>[8]</sup>), OECD Due Diligence Guidance for Responsible Business Conduct, <https://mneguidelines.oecd.org/OECD-Due-Diligence-Guidance-for-Responsible-Business-Conduct.pdf>.

In addition to the general OECD Due Diligence Guidance for RBC, the OECD has developed sector-specific Due Diligence Guidance for the minerals, extractives, agriculture, garment and footwear, and financial sectors. This Guidance helps enterprises identify and address risks to people, the planet, and society that can be associated with business operations, products, or services in these specific sectors (see Box A.3).



### Box A.3. OECD Sector-Specific Due Diligence Guidance

The OECD has developed Due Diligence Guidance for four specific sectors, all of which have been embedded into Recommendations of the OECD Council:

- OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict Affected and High-Risk Areas;
- OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector;
- OECD-FAO Guidance for Responsible Agricultural Supply Chains;
- OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector.

These OECD Recommendations of the Council recommend that adhering governments and their NCPs actively promote the use and observance of the Guidance by enterprises operating in and from their territories, but also take measures to support the adoption of risk-based due diligence frameworks for responsible supply chains and ensure the widest possible dissemination of the Guidance (including among relevant government entities), and their use as resources by stakeholders.

As part of its work on RBC in the financial sector, the OECD has also developed guidance on RBC for Institutional Investors; Due Diligence for Responsible Corporate Lending and Securities Underwriting; and RBC Due Diligence for Project and Asset Finance Transactions.

Sources: OECD (2016<sub>[129]</sub>), OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, [https://www.oecd.org/en/publications/oecd-due-diligence-guidance-for-responsible-supply-chains-of-minerals-from-conflict-affected-and-high-risk-areas\\_9789264252479-en.html](https://www.oecd.org/en/publications/oecd-due-diligence-guidance-for-responsible-supply-chains-of-minerals-from-conflict-affected-and-high-risk-areas_9789264252479-en.html); OECD (2017<sub>[130]</sub>), OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector, [https://www.oecd.org/en/publications/oecd-due-diligence-guidance-for-meaningful-stakeholder-engagement-in-the-extractive-sector\\_9789264252462-en.html](https://www.oecd.org/en/publications/oecd-due-diligence-guidance-for-meaningful-stakeholder-engagement-in-the-extractive-sector_9789264252462-en.html); OECD/FAO (2016<sub>[131]</sub>), OECD-FAO Guidance for Responsible Agricultural Supply Chains, <https://mneguidelines.oecd.org/oecd-fao-guidance.pdf>; OECD (2018<sub>[132]</sub>), OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector, [https://www.oecd.org/en/publications/oecd-due-diligence-guidance-for-responsible-supply-chains-in-the-garment-and-footwear-sector\\_9789264290587-en.html](https://www.oecd.org/en/publications/oecd-due-diligence-guidance-for-responsible-supply-chains-in-the-garment-and-footwear-sector_9789264290587-en.html); OECD (2017<sub>[133]</sub>), Responsible Business Conduct for Institutional Investors: Key Considerations for Due Diligence under the OECD Guidelines for Multinational Enterprises, <https://mneguidelines.oecd.org/RBC-for-Institutional-Investors.pdf>; OECD (2019<sub>[134]</sub>), Due Diligence for Responsible Corporate Lending and Securities Underwriting: Key considerations for banks implementing the OECD Guidelines for Multinational Enterprises, <https://mneguidelines.oecd.org/Due-Diligence-for-Responsible-Corporate-Lending-and-Securities-Underwriting.pdf>; OECD (2022<sub>[135]</sub>), Responsible business conduct due diligence for project and asset finance transactions, [https://www.oecd-ilibrary.org/finance-and-investment/responsible-business-conduct-due-diligence-for-project-and-asset-finance-transactions\\_952805e9-en](https://www.oecd-ilibrary.org/finance-and-investment/responsible-business-conduct-due-diligence-for-project-and-asset-finance-transactions_952805e9-en).

### ***The OECD Policy Framework for Investment***

Besides promoting the adoption of RBC practices by businesses, through its instruments on RBC, the OECD also encourages the creation of enabling environments for RBC by governments. The PFI has been the first instrument to do so. This Framework, which is designed to help governments maximise the development impact of investment, contains a chapter dedicated to policies for enabling RBC (Chapter 7) (OECD, 2015<sub>[136]</sub>). This Chapter has become a reference for designing and implementing policy frameworks that support RBC and coordinating government efforts on RBC (see Box A.4).

#### Box A.4. Extracts from Chapter 7 of the PFI – Policies for enabling RBC

Governments can enable responsible business conduct (RBC) in several ways:

- Regulating – establishing and enforcing an adequate legal framework that protects the public interest and underpins RBC, and monitoring business performance and compliance with regulatory frameworks;
- Facilitating – clearly communicating expectations on what constitutes RBC, providing guidance with respect to specific practices and enabling enterprises to meet those expectations;
- Co-operating – working with stakeholders in the business community, worker organisations, civil society, general public, across internal government structures, as well as other governments to create synergies and establish coherence regarding RBC;
- Promoting – demonstrating support for best practices in RBC;
- Exemplifying – acting responsibly in the context of the government's role as an economic actor.

Source: OECD (2015<sup>[11]</sup>), Policy Framework for Investment, 2015 Edition, [https://www.oecd.org/en/publications/policy-framework-for-investment-2015-edition\\_9789264208667-en.html](https://www.oecd.org/en/publications/policy-framework-for-investment-2015-edition_9789264208667-en.html).

#### ***The OECD Recommendation on the Role of Government in Promoting Responsible Business Conduct***

Building on the PFI, the MNE Guidelines and other instruments and tools that include policy guidance on RBC in related areas (such as trade and investment, but also public procurement and state-owned enterprises), the OECD recently developed a new instrument to support governments in the creation of enabling environments for RBC: the OECD Recommendation on the Role of Government in Promoting RBC.

This Recommendation, which was adopted in December 2022, contains a unique and comprehensive set of principles and policy recommendations intended to assist governments, as well as other public authorities and relevant stakeholders, in their efforts to design and implement policies aimed at facilitating and promoting RBC. It brings together guidelines on government policies and the coherence of policies regarding RBC, derived from existing OECD standards related to RBC or relevant policy areas. The Recommendation gathers 21 guiding principles structured around six key axes (see Figure A.2).

Figure A.2. The axes of the OECD Recommendation on the Role of Government in Promoting RBC



Source: OECD (2022<sup>[14]</sup>), OECD Recommendation on the Role of Government in Promoting Responsible Business Conduct, <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0486#mainText>.

Out of these six key axes, one axis pertains to the policies and measures that governments can develop and adopt to encourage RBC across relevant policy areas. One of these policy areas is trade and investment. The OECD Recommendation on the Role of Government in Promoting RBC provides in this regard that governments should promote RBC through their trade and investment policies, as well as their bilateral and multilateral agreements. It specifies that this should include the expectation that businesses under the scope of these policies and agreements implement RBC standards. The Recommendation also includes several additional specific guiding principles relevant for trade and investment.

## Annex B. References to responsible business conduct and related clauses in LAC countries' trade and investment agreements

Table B.1. References to RBC and RBC clauses in trade agreements concluded by LAC countries

Agreement	Signature date and status	Areas of the MNE Guidelines covered by the clause	Ref. to international RBC instruments in the clause (Yes/No)	Ref. to due diligence in the clause (Yes/No)	Relevant extracts from the agreement	Clause subject to dispute settlement (Yes/No)
<b>BILATERAL TRADE AGREEMENTS</b>						
<a href="#">Argentina – Chile FTA</a>	02/11/2017 In force	Labour Environment	No	No	<p><b><u>Chapter 12: Labour</u></b>  <b>Article 12.8: Corporate Social Responsibility</b>            Each Party shall encourage enterprises operating in its territory to voluntarily adopt corporate social responsibility initiatives on labour issues that have been approved or are supported by that Party.<sup>1</sup></p> <p><b><u>Chapter 13: Trade and Environment</u></b>  <b>Article 13.6: Corporate Social Responsibility</b>            Each Party shall encourage enterprises operating within its territory or jurisdiction to voluntarily incorporate, in their internal policies, sound principles of corporate social responsibility that are related to the care and protection of the environment, which are consistent with internationally recognized guidelines and directives that have been adopted by that Party.<sup>2</sup></p>	Yes: specific dispute settlement mechanism in chapters (Comité Laboral and Comité de Comercio y Medio Ambiente; and consultations).
<a href="#">Brazil – Chile FTA</a>	21/11/2018 In force	Labour Environment	No	No	<p><b><u>Chapter 16: Trade and Labour Issues</u></b>  <b>Article 16.8: Responsible Business Conduct</b>            Each Party shall encourage enterprises operating within its territory or jurisdiction to incorporate, in their internal policies, principles and standards of responsible business conduct, which contribute to achieving sustainable development, in its labor dimension, and which are consistent with its respective applicable legislation and with internationally recognized guidelines and principles that have been adopted or endorsed by that Party.<sup>3</sup></p>	Yes: specific dispute settlement mechanism in chapters (Comité Laboral

Agreement	Signature date and status	Areas of the MNE Guidelines covered by the clause	Ref. to international RBC instruments in the clause (Yes/No)	Ref. to due diligence in the clause (Yes/No)	Relevant extracts from the agreement	Clause subject to dispute settlement (Yes/No)
					<p><b><u>Chapter 17: Trade and Environment</u></b>  <b>Article 17.6: Responsible Business Conduct</b>            Each Party shall encourage enterprises operating within its territory or jurisdiction to incorporate, in their internal policies, principles and standards of responsible business conduct that contribute to achieving sustainable development, including its environmental dimension, and that are consistent with their respective applicable legislation and with internationally recognized guidelines and principles that have been adopted or endorsed by that Party.<sup>4</sup></p>	and <i>Comité de Comercio y Medio Ambiente</i> ; and consultations).
<a href="#">Chile – Ecuador FTA</a>	13/08/2020 In force	Labour Environment	Yes: UN Guiding Principles on Business and Human Rights.	No	<p><b><u>Chapter 16: Trade and Labour Issues</u></b>  <b>Article 16.8: Responsible Business Conduct</b>            1. Each Party shall encourage enterprises operating within its territory or jurisdiction to incorporate into their internal policies, principles and standards of responsible business conduct, which contribute to achieving sustainable development in its labour dimension, that are consistent with internationally recognized guidelines and principles that have been adopted or endorsed by that Party.            2. The Parties also commit to promote international norms and standards on human rights and business, including the framework of the 2011 UN Guiding Principles on Business and Human Rights.            3. Accordingly, the Parties agree to identify opportunities for cooperation to exchange information, experiences and best practices related to this matter.<sup>5</sup></p> <p><b><u>Chapter 17: Trade and Environment</u></b>  <b>Article 17.8: Responsible Business Conduct</b>            1. Each Party shall encourage enterprises operating within its territory or jurisdiction to voluntarily adopt, in their internal policies, practices and standards of responsible business conduct that contribute to achieving sustainable development in its environmental dimension, consistent with internationally recognized guidelines and principles that have been endorsed or are supported by that Party.            2. To this end, the Parties agree to exchange views and may consider bilateral cooperation in the various areas of responsible business conduct.<sup>6</sup></p>	Yes: specific dispute settlement mechanism in chapters ( <i>Comité Laboral</i> and <i>Comité de Comercio y Medio Ambiente</i> ; and consultations).
<a href="#">Chile – Paraguay FTA</a>	01/01/2021 Not yet in force	Labour Environment	No	No	<p><b><u>Chapter 11: Trade and Labour Issues</u></b>  <b>Article 11.8: Responsible Business Conduct</b>            Each Party shall, according to its priorities, encourage enterprises operating within its territory or jurisdiction to incorporate into their internal policies principles and standards of responsible business conduct that contribute to achieving sustainable development in its labour dimension, which are consistent with internationally recognized guidelines and principles that have been adopted or endorsed by that Party.<sup>7</sup></p> <p><b><u>Chapter 12: Trade and Environment</u></b>  <b>Article 12.9: Responsible Business Conduct</b>            1. Each Party shall encourage enterprises operating within its territory or jurisdiction to voluntarily adopt, in their internal policies, practices and standards of responsible business conduct that contribute to achieving sustainable development in its environmental</p>	Yes: specific dispute settlement mechanism in chapters ( <i>Comité Laboral</i> and <i>Comité de Comercio y Medio Ambiente</i> ; and consultations).

Agreement	Signature date and status	Areas of the MNE Guidelines covered by the clause	Ref. to international RBC instruments in the clause (Yes/No)	Ref. to due diligence in the clause (Yes/No)	Relevant extracts from the agreement	Clause subject to dispute settlement (Yes/No)
					dimension, consistent with internationally recognized guidelines and principles that have been endorsed or are supported by that Party. 2. To this end, the Parties agree to exchange views and may consider bilateral cooperation in the various areas of responsible business conduct. <sup>8</sup>	
<a href="#">Chile – Uruguay FTA</a>	04/10/2016 In force	Labour Environment	No	No	<b><u>Chapter 11: Labour</u></b> <b>Article 11.8: Corporate Social Responsibility</b> Each Party shall encourage companies operating in its territory to voluntarily adopt corporate social responsibility initiatives on labour issues that have been approved or are supported by that Party. <sup>9</sup> <b><u>Chapter 12: Environment</u></b> <b>Article 12.6: Corporate Social Responsibility</b> Each Party shall encourage companies, operating within its territory or jurisdiction, to voluntarily incorporate into their internal policies sound principles of corporate social responsibility that are related to the environment, consistent with internationally recognized guidelines and directives that have been endorsed or are supported by that Party. <sup>10</sup>	Yes: specific dispute settlement mechanism in chapters ( <i>Comité Laboral</i> and <i>Comité Ambiental</i> ; and consultations).
<a href="#">Chile – United States FTA</a>	06/06/2003 In force	Environment	No	No	<b><u>Chapter 19: Environment</u></b> <b>Article 19.10: Principles of Corporate Stewardship</b> Recognizing the substantial benefits brought by international trade and investment as well as the opportunity for enterprises to implement policies for sustainable development that seek to ensure coherence between social, economic and environmental objectives, each Party should encourage enterprises operating within its territory or jurisdiction to voluntarily incorporate sound principles of corporate stewardship in their internal policies, such as those principles or agreements that have been endorsed by both Parties.	Yes: State-to-State Dispute Settlement (SSDS) and specific dispute settlement mechanism in chapter (consultations).
<a href="#">Colombia – Canada FTA</a>	21/11/2008 In force	General clause	No	No	<b><u>Preamble</u></b> Encourage enterprises operating within their territory or subject to their jurisdiction, to respect internationally recognized corporate social responsibility standards and principles and to pursue best practices.	No
<a href="#">Colombia – Panama FTA</a>	20/09/2013 In force	Environment	No	No	<b><u>Chapter 9: Environment</u></b> <b>Article 9.5: Corporate Social and Environmental Responsibility</b> 1. The Parties recognize the importance of corporate responsibility in socio-environmental matters, as a contribution to sustainable development. 2. The Parties shall endeavour to promote and facilitate the voluntary contribution of private enterprises to environmental conservation and protection during the development and implementation of projects carried out by such enterprises. <sup>11</sup>	Yes: specific dispute settlement mechanism in chapter ( <i>Comité Conjunto de Asuntos Ambientales</i> and



Agreement	Signature date and status	Areas of the MNE Guidelines covered by the clause	Ref. to international RBC instruments in the clause (Yes/No)	Ref. to due diligence in the clause (Yes/No)	Relevant extracts from the agreement	Clause subject to dispute settlement (Yes/No)
						consultations).
<a href="#">Colombia – Korea FTA</a>	21/02/2013 In force	Environment	No	No	<b><u>Chapter 16: Trade and Sustainable Development</u></b> <b>Annex 16-A</b> 2. Cooperative activities may include, but shall not be limited to: [...] ENVIRONMENT [...] (b) information exchange and joint work on corporate social responsibility and accountability, including on the effective implementation and follow-up of internationally agreed guidelines, fair and ethical trade, private and public certification and labelling schemes, including ecolabeling, and green public procurement [...].	Yes: specific dispute settlement mechanism in chapter (Consejo de Desarrollo Sostenible and consultations).
<a href="#">Colombia – United States TPA</a>	22/11/2006 In force	Labour	No	No	<b><u>Chapter 17: Labor</u></b> <b>Annex 17.6: Labor Cooperation and Capacity Building Mechanism</b> 2. The Parties' contact points shall carry out the work of the Mechanism by developing and pursuing bilateral or regional cooperation activities on labor issues, which may include, but need not be limited to: (o) best labor practices: dissemination of information and promotion of best labor practices, including corporate social responsibility, that enhance competitiveness and worker welfare; [...].	Yes: specific dispute settlement mechanism in chapter (Consejo de Desarrollo Sostenible and consultations).
<a href="#">Panama – Canada FTA</a>	14/05/2010 In force	General clause	No	No	<b><u>Preamble</u></b> Encourage enterprises operating within their territory or subject to their jurisdiction, to respect internationally recognized corporate social responsibility standards and principles and to pursue best practices; [...].	No
<a href="#">Peru – Korea FTA</a>	21/03/2011 In force	Environment	No	No	<b><u>Chapter 19: Environment</u></b> <b>Article 19.7: Environment and Enterprise</b> 1. The Parties shall exchange information on each Party's environmental guidelines for the enterprises with a view to enhancing a better understanding of them. 2. Each Party shall strive to promote its environmental guidelines by enterprises operating in its territory.	Yes: specific dispute settlement mechanism in chapter (Environmental Affairs Council and

Agreement	Signature date and status	Areas of the MNE Guidelines covered by the clause	Ref. to international RBC instruments in the clause (Yes/No)	Ref. to due diligence in the clause (Yes/No)	Relevant extracts from the agreement	Clause subject to dispute settlement (Yes/No)
						consultations).
<a href="#">Peru – Canada FTA</a>	29/05/2008 In force	Environment	No	No	<p><b><u>Preamble</u></b> ENCOURAGE enterprises operating within their territory or subject to their jurisdiction, to respect internationally recognized corporate social responsibility standards and principles and pursue best practices.</p> <p><b><u>Agreement on the Environment between Canada and the Republic of Peru</u></b> <b>Article 6: Corporate Social Responsibility</b> Recognizing the substantial benefits brought by international trade and investment, the Parties shall encourage voluntary best practices of corporate social responsibility by enterprises within their territories or jurisdictions, to strengthen coherence between economic and environment objectives.</p>	Yes: specific dispute settlement mechanism in chapter ( <i>Comité del Medio Ambiente</i> and consultations).
<a href="#">Peru – United States TPA</a>	12/04/2016 In force	Labour	No	No	<p><b><u>Chapter 17: Labor</u></b> <b>Annex 17.6 Labor Cooperation and Capacity Building Mechanism</b> 2. Cooperation and Capacity Building Priorities The Parties' contact points shall carry out the work of the Mechanism by developing and pursuing bilateral or regional cooperation activities on labor issues, which may include, but need not be limited to: [...] (o) best labor practices: dissemination of information and promotion of best labor practices, including corporate social responsibility, that enhance competitiveness and worker welfare[.]</p>	No
<b>PLURILATERAL TRADE AGREEMENTS</b>						
<a href="#">Andean Countries – EU FTA</a>	26/06/2012 In force	General clause	No	No	<p><b><u>Preamble</u></b> ACKNOWLEDGING the importance of good corporate governance and corporate social responsibility for sustainable development, and affirming their aim to encourage enterprises to observe internationally recognised guidelines and principles in this respect, established by organisations such as the Organisation for Economic Cooperation and Development (OECD) and the United Nations (UN) [...].</p> <p><b><u>Title IX: Trade and Sustainable Development</u></b> <b>Article 271: Trade Favours Sustainable Development</b> [...] 3. The Parties agree to promote best business practices related to corporate social responsibility.</p>	Yes: specific dispute settlement mechanism in chapter (Sub-committee on Trade and Sustainable Development, consultations, and Group of Experts).

Agreement	Signature date and status	Areas of the MNE Guidelines covered by the clause	Ref. to international RBC instruments in the clause (Yes/No)	Ref. to due diligence in the clause (Yes/No)	Relevant extracts from the agreement	Clause subject to dispute settlement (Yes/No)
<a href="#">Andean Countries – UK FTA</a>	26/06/2012 In force	General clause	No	No	<p><b><u>Preamble</u></b> ACKNOWLEDGING the importance of good corporate governance and corporate social responsibility for sustainable development, and affirming their aim to encourage enterprises to observe internationally recognised guidelines and principles in this respect, established by organisations such as the Organisation for Economic Cooperation and Development (OECD) and the United Nations (UN) [...].</p> <p><b><u>Title IX: Trade and Sustainable Development</u></b> <b>Article 271: Trade Favouring Sustainable Development</b> [...] 3. The Parties agree to promote best business practices related to corporate social responsibility.</p>	Yes: specific dispute settlement mechanism in chapter (Sub-committee on Trade and Sustainable Development, Consultations, and Group of Experts).
<a href="#">Central America – EFTA FTA</a>	24/06/2013 In force	Environment	Yes: general reference to OECD and UN instruments.	No	<p><b><u>Preamble</u></b> Acknowledging the importance of good corporate governance and corporate social responsibility for sustainable development, and affirming their aim to encourage enterprises to observe internationally recognised guidelines and principles in this respect, established by organisations such as the Organisation for Economic Cooperation and Development (OECD) and the United Nations (UN) [...].</p> <p><b><u>Chapter 9: Trade and Sustainable Development</u></b> <b>Article 9.7: Promotion of Trade and Investment Favouring Sustainable Development</b> 4. The Parties shall encourage corporate social responsibility, as well as cooperation between enterprises in relation to goods, services and technologies that contribute to sustainable development and are beneficial to the environment.</p>	Yes: specific dispute settlement mechanism in chapter (consultations).
<a href="#">Central America – EU FTA</a>	29/06/2012 In force	General clause	No	No	<p><b><u>Title VIII: Trade and Sustainable Development</u></b> <b>Article 63: Cooperation and Technical Assistance on Trade and Sustainable Development</b> 2. To complement the activities set out in Title III (Social Development and Social Cohesion) and V (Environment, Natural Disasters and Climate Change) of Part III of this Agreement, the Parties agree to cooperate, including by supporting technical assistance, training and capacity building actions in, inter alia, the following areas: (a) supporting the development of incentives to foster environmental protection and decent work conditions, especially through the promotion of legal and sustainable trade, for instance through fair and ethical trade schemes, including those involving corporate social responsibility and accountability, as well as related labelling and marketing initiatives [...].</p> <p><b>Article 288: Trade Favouring Sustainable Development</b> 2. The Parties shall endeavour to: (c) facilitate and promote trade in products that respond to sustainability considerations, including products that are the subject of schemes such as fair and ethical trade schemes, eco-labelling, organic production, and including those schemes involving corporate social responsibility and accountability [...].</p>	Yes: specific dispute settlement mechanism in chapter ( <i>Junta de Comercio y Desarrollo Sostenible</i> , consultations, and Expert Panel).

Agreement	Signature date and status	Areas of the MNE Guidelines covered by the clause	Ref. to international RBC instruments in the clause (Yes/No)	Ref. to due diligence in the clause (Yes/No)	Relevant extracts from the agreement	Clause subject to dispute settlement (Yes/No)
<a href="#">Central America – UK FTA</a>	18/07/2019 In force	General clause	No	No	<p><b><u>Title VIII: Trade and Sustainable Development</u></b></p> <p><b>Article 63: Cooperation and Technical Assistance on Trade and Sustainable Development</b></p> <p>2. To complement the activities set out in Title III (Social Development and Social Cohesion) and V (Environment, Natural Disasters and Climate Change) of Part III of this Agreement, the Parties agree to cooperate, including by supporting technical assistance, training and capacity building actions in, inter alia, the following areas:</p> <p>(a) supporting the development of incentives to foster environmental protection and decent work conditions, especially through the promotion of legal and sustainable trade, for instance through fair and ethical trade schemes, including those involving corporate social responsibility and accountability, as well as related labelling and marketing initiatives [...].</p> <p><b>Article 288: Trade Favouring Sustainable Development</b></p> <p>2. The Parties shall endeavour to:</p> <p>(c) facilitate and promote trade in products that respond to sustainability considerations, including products that are the subject of schemes such as fair and ethical trade schemes, eco-labelling, organic production, and including those schemes involving corporate social responsibility and accountability [...].</p>	<p><b>Yes:</b> specific dispute settlement mechanism in chapter (<i>Junta de Comercio y Desarrollo Sostenible</i>, consultations, and Expert Panel).</p>
<a href="#">Chile – EU Advanced Framework Agreement</a>	13/12/2023 Not in force	General clause	<p><b>Yes:</b> OECD MNE Guidelines and OECD Due Diligence Guidance, ILO MNE Declaration, UN Global Compact, and UN Guiding Principles on Business and Human Rights.</p>	<p><b>Yes:</b> reference to the OECD Due Diligence Guidance.</p>	<p><b><u>Chapter 33: Trade and Sustainable Development</u></b></p> <p><b>Article 33.3: Trade and Responsible Business Conduct and Supply Chain Management</b></p> <p>1. The Parties recognise the importance of responsible management of supply chains through responsible business conduct or corporate social responsibility practices and the role of trade in pursuing this objective.</p> <p>2. Pursuant to para 1, each Party shall:</p> <p>(a) promote responsible business conduct or corporate social responsibility by encouraging the uptake of relevant practices by businesses that are consistent with internationally recognized principles, standards and guidelines, including sectorial guidelines of due diligence, that have been endorsed or are supported by that Party.</p> <p>(b) support the dissemination and use of relevant international instruments, that have been endorsed or are supported by that Party, such as the OECD Guidelines for Multinational Enterprises, the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, the UN Global Compact and the UN Guiding Principles on Business and Human Rights.</p> <p>3. The Parties recognise the utility of international sector-specific guidelines in the area of corporate social responsibility / responsible business conduct and shall promote joint work in this regard. The Parties shall also implement measures to promote the uptake of OECD Due Diligence Guidelines.</p> <p>4. The Parties recognise the importance to promote trade in goods contributing to enhanced social conditions and environmentally sound practices, such as environmental goods and services contributing to a resource-efficient, low-carbon economy, goods whose production is not linked to deforestation, or goods that are the subject of voluntary sustainability assurance schemes and mechanisms.</p> <p>5. The Parties shall exchange information as well as best practices and, as appropriate, cooperate bilaterally, regionally and in international fora on issues covered by this article.</p>	<p><b>Yes:</b> specific dispute settlement mechanism in chapter (Sub-Committee on Trade and Sustainable Development, consultations, and Expert Panel).</p>

Agreement	Signature date and status	Areas of the MNE Guidelines covered by the clause	Ref. to international RBC instruments in the clause (Yes/No)	Ref. to due diligence in the clause (Yes/No)	Relevant extracts from the agreement	Clause subject to dispute settlement (Yes/No)
					<p><b><u>Chapter 15: Energy and Raw Materials</u></b></p> <p><b>Article 15.14: Cooperation on Energy and Raw Materials</b></p> <p>1. The Parties shall as appropriate cooperate in the area of energy and raw materials with a view to, inter alia: [...]</p> <p>c) promote responsible business conduct in accordance with international standards that have been endorsed or are supported by the Parties, such as the OECD Guidelines for Multinational Enterprises and in particular its Chapter IX on Science and Technology; [...]</p> <p>Thematic cooperation on Raw Materials</p> <p>3. Recognising their shared commitment to responsible sourcing and sustainable production of raw materials and their mutual interest to facilitate the integration of raw materials value chains, the Parties agree to cooperate on any relevant issue of mutual interest, such as:</p> <p>a) responsible mining practices and raw materials value chains sustainability, including the contribution of the raw materials value chains to the fulfilment of the UN Sustainable Development Goals; [...].</p>	
<a href="#">Chile – New Zealand – Singapore DEPA</a>	11/06/2020 In force	Labour Environment Human Rights	No	No	<p><b><u>Preamble</u></b></p> <p>REAFFIRM the importance of promoting corporate social responsibility, cultural identity and diversity, environmental protection and conservation, gender equality, indigenous rights, labour rights, inclusive trade, sustainable development and traditional knowledge, as well as the importance of preserving their right to regulate in the public interest[.]</p>	No
<a href="#">Ecuador – EFTA CEPA</a>	25/06/2018 In force	Environment	No	No	<p><b><u>Chapter 8: Trade and Sustainable Development</u></b></p> <p><b>Article 8.7: Promotion of Trade and Investment Favouring Sustainable Development</b></p> <p>3. The Parties shall encourage corporate social responsibility practices, as well as cooperation between enterprises in relation to goods, services and technologies that are beneficial to the environment and contribute to sustainable development in its economic, environmental and social dimension.</p>	Yes: specific dispute settlement mechanism in chapter (Joint Committee, consultations, and- if agreed upon- good offices, conciliation or mediation).
<a href="#">Mercosur – EU Association Agreement (Trade Part)</a>	Not signed Not yet in force	General clause	Yes: OECD MNE Guidelines and OECD Due Diligence	Yes: reference to the OECD Due Diligence Guidance.	<p><b><u>Chapter on Trade and Sustainable Development</u></b></p> <p><b>Article 11: Trade and Responsible Management of Supply Chains</b></p> <p>The Parties recognise the importance of responsible management of supply chains through responsible business conduct and corporate social responsibility practices based on internationally agreed guidance.</p> <p>2. Pursuant to paragraph 1, each Party shall:</p> <p>(a) support the dissemination and use of relevant international instruments that it has endorsed or supported, such as the ILO</p>	Yes: specific dispute settlement mechanism in chapter (Sub-Committee on

Agreement	Signature date and status	Areas of the MNE Guidelines covered by the clause	Ref. to international RBC instruments in the clause (Yes/No)	Ref. to due diligence in the clause (Yes/No)	Relevant extracts from the agreement	Clause subject to dispute settlement (Yes/No)
			Guidance, ILO MNE Declaration, UN Global Compact, and UN Guiding Principles on Business and Human Rights.		<p>Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, the UN Global Compact, the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises.</p> <p>(b) promote the voluntary uptake by companies of corporate social responsibility or responsible business practices, consistent with the above-mentioned guidelines and principles.</p> <p>c) provide a supportive policy framework for the effective implementation of the abovementioned guidelines and principles.</p> <p>3. The Parties recognise the utility of international sector-specific guidelines in the area of corporate social responsibility or responsible business conduct and shall promote joint work in this regard. In respect of the OECD Due Diligence Guidance for responsible supply chains of minerals from conflict-affected and high-risk areas and its supplements, the Parties adhering to or supporting such Guidance shall also promote the uptake of this Guidance.</p> <p>4. The Parties shall exchange information as well as best practices and, as appropriate, cooperate on issues covered by this article, including in relevant regional and international fora.</p> <p><b>Article 13: Working together on trade and sustainable development</b></p> <p>The Parties recognise the importance of working together in order to achieve the objectives of this Chapter. They may work jointly on inter alia:</p> <p>[...]</p> <p>(j) corporate social responsibility, responsible business conduct, responsible management of global supply chains and accountability, including with regard to implementation, follow-up and dissemination of relevant international instruments[.]</p>	Trade and Sustainable Development, consultations, and Expert Panel).
<a href="#">Mexico – EU Association Agreement (Trade Part)</a>	Not signed Not yet in force	General clause Anti-corruption	Yes: OECD MNE Guidelines and OECD Due Diligence Guidance, ILO MNE Declaration, UN Global Compact, and UN Guiding Principles on Business and Human Rights.	Yes: reference to the OECD Due Diligence Guidance.	<p><b><u>Chapter on Trade and Sustainable Development</u></b></p> <p><b>Article 9: Trade and Responsible Management of Supply Chains</b></p> <p>1. The Parties recognise the importance of responsible management of supply chains through responsible business conduct and corporate social responsibility practices, which contribute to an enabling environment, and the role of trade in pursuing the objective of responsible management of supply chains.</p> <p>2. Pursuant to paragraph 1, each Party shall:</p> <p>(a) promote corporate social responsibility or responsible business conduct, including by encouraging the uptake of relevant practices by businesses;</p> <p>(b) support the dissemination and use of relevant international instruments, such as the OECD Guidelines for Multinational Enterprises, the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, the UN Global Compact and the UN Guiding Principles on Business and Human Rights.</p> <p>3. The Parties recognise the utility and shall promote the uptake of international sector-specific guidelines in the area of corporate social responsibility or responsible business conduct adopted by their Governments, such as the OECD Due Diligence Guidance documents for responsible supply chains, and shall promote joint work in this regard, including with respect to third countries.</p> <p>4. The Parties shall exchange information as well as best practices and, as appropriate, cooperate with the other Party, regionally and in international fora on issues covered by this article.</p>	Yes: specific dispute settlement mechanism in chapters (Sub-Committee on Trade and Sustainable Development / Sub-Committee on Anti-Corruption in Trade and Investment, consultations, and Expert Panel).



Agreement	Signature date and status	Areas of the MNE Guidelines covered by the clause	Ref. to international RBC instruments in the clause (Yes/No)	Ref. to due diligence in the clause (Yes/No)	Relevant extracts from the agreement	Clause subject to dispute settlement (Yes/No)
					<p><b>Article 13: Working together on trade and sustainable development</b>  The Parties recognise the importance of working together in order to achieve the objectives of this Chapter. They may work jointly on inter alia:  [...]  (l) corporate social responsibility, responsible business conduct and responsible management of global supply chains, including with regard to adherence, implementation and dissemination of internationally agreed instruments[.]</p> <p><b><u>Chapter on Anti-corruption</u></b>  <b>Article 7: Responsible Business Conduct</b>  1. The Parties recognise the importance of preventive measures and responsible business conduct, including financial and non-financial reporting obligations and corporate social responsibility practices in averting corruption and the role of trade in pursuing this objective.  2. The Parties recognise the necessity for taking into account the needs and constraints of SMEs in terms of reporting obligations.  3. The Parties recall their support to the OECD Guidelines for Multinational Enterprises in relation to anti-corruption.</p> <p><b><u>Chapter on Energy and Raw Materials</u></b>  <b>Article 11: Cooperation on Energy and Raw Materials</b>  The Parties shall cooperate in the area of energy and raw materials with a view to, inter alia:  d) promote corporate social responsibility in accordance with international standards, such as the OECD Guidelines for Multinational Enterprises and the respective Due Diligence Guidance[.]</p>	
<a href="#">TPP/ CPTPP</a> <sup>13</sup>	TPP: 04/02/2016 Not yet in force CPTPP: 08/03/2018 In force	Labour Environment	No	No	<p><b><u>Chapter 19: Labour</u></b>  <b>Article 19.7: Corporate Social Responsibility</b>  Each Party shall endeavour to encourage enterprises to voluntarily adopt corporate social responsibility initiatives on labour issues that have been endorsed or are supported by that Party.</p> <p><b><u>Chapter 20: Environment</u></b>  <b>Article 20.10: Corporate Social Responsibility</b>  Each Party should encourage enterprises operating within its territory or jurisdiction, to adopt voluntarily, into their policies and practices, principles of corporate social responsibility that are related to the environment, consistent with internationally recognised standards and guidelines that have been endorsed or are supported by that Party.</p>	Yes: specific dispute settlement mechanism in chapter (consultations and Expert Panel).
<a href="#">USMCA</a>	30/11/2018 In force	Environment	No	No	<p><b><u>Chapter 24: Environment</u></b>  <b>Article 24.13: Corporate Social Responsibility and Responsible Business Conduct</b>  1. The Parties recognize the importance of promoting corporate social responsibility and responsible business conduct.  2. Each Party shall encourage enterprises organized or constituted under its laws, or operating in its territory, to adopt and implement voluntary best practices of corporate social responsibility that are related to the environment, such as those in</p>	Yes: specific dispute settlement mechanism in chapter (Environment)

Agreement	Signature date and status	Areas of the MNE Guidelines covered by the clause	Ref. to international RBC instruments in the clause (Yes/No)	Ref. to due diligence in the clause (Yes/No)	Relevant extracts from the agreement	Clause subject to dispute settlement (Yes/No)
					internationally recognized standards and guidelines that have been endorsed or are supported by that Party, to strengthen coherence between economic and environmental objectives.	Committee, consultations, and Expert Panel).

Notes:

1. 2017 Argentina-Chile FTA, Unofficial English text retrieved from: <https://edit.wti.org/document/show/bf9aa665-cb2a-472f-849d-090e28b096fb>.
2. 2017 Argentina-Chile FTA, Unofficial English text retrieved from: <https://edit.wti.org/document/show/bf9aa665-cb2a-472f-849d-090e28b096fb>.
3. 2018 Brazil-Chile FTA, Unofficial English text retrieved from: <https://edit.wti.org/app.php/document/show/e62cfb4c-abbf-43d9-ae34-a15c7d057ab4>.
4. 2018 Brazil-Chile FTA, Unofficial English text retrieved from: <https://edit.wti.org/app.php/document/show/e62cfb4c-abbf-43d9-ae34-a15c7d057ab4>.
5. 2020 Chile-Ecuador ECA, Unofficial English text retrieved from: <https://edit.wti.org/app.php/document/show/0283d464-5b81-46ab-8080-e093534b34d9>.
6. 2020 Chile-Ecuador ECA, Unofficial English text retrieved from: <https://edit.wti.org/app.php/document/show/0283d464-5b81-46ab-8080-e093534b34d9>.
7. 2021 Chile-Paraguay FTA, Unofficial English text retrieved from: <https://edit.wti.org/app.php/document/show/6c1d59c5-a57f-42b6-baec-4fea1a7c7d6>.
8. 2021 Chile-Paraguay FTA, Unofficial English text retrieved from: <https://edit.wti.org/app.php/document/show/6c1d59c5-a57f-42b6-baec-4fea1a7c7d6>.
9. 2016 Chile-Uruguay FTA, Unofficial English text retrieved from: <https://edit.wti.org/app.php/document/show/d1cba00f-4306-48a6-843d-c9a4bdcf7a93>.
10. 2016 Chile-Uruguay FTA, Unofficial English text retrieved from: <https://edit.wti.org/app.php/document/show/d1cba00f-4306-48a6-843d-c9a4bdcf7a93>.
11. 2013 Colombia-Panama FTA, Unofficial English text retrieved from: <https://edit.wti.org/app.php/document/show/9c46d3aa-3c79-40d3-ba4f-ccf3f560c499>.
12. Chile-EU Advanced Framework Agreement, Unofficial Translation from Spanish Original text: [https://www.subrei.gob.cl/docs/default-source/acuerdos/ama/capitulo-33-comercio-y-desarrollo-sostenible.pdf?sfvrsn=e30783ff\\_1](https://www.subrei.gob.cl/docs/default-source/acuerdos/ama/capitulo-33-comercio-y-desarrollo-sostenible.pdf?sfvrsn=e30783ff_1).
13. 2018 CPTPP, Article 1 (Incorporation of the Trans-Pacific Partnership Agreement), <https://www.dfat.gov.au/trade/agreements/not-yet-in-force/tpp/Pages/tpp-text-and-associated-documents>.

Table B.2. References to RBC and RBC clauses in investment agreements concluded by LAC countries

Agreement	Signature date and status	Areas of the MNE Guidelines covered by the clause	Ref. to international RBC instruments in the clause (Yes/No)	Ref. to due diligence in the clause (Yes/No)	Relevant extracts from the agreement	Clause subject to dispute settlement (Yes/No)
<b>BILATERAL INVESTMENT AGREEMENTS</b>						
<a href="#">Argentina – Chile FTA</a> (Chapter 8)	02/11/2017 In force	Labour Environment Human Rights Anti-corruption	<b>Yes:</b> OECD MNE Guidelines.	<b>No</b>	<b>Article 8.17: Corporate Social Responsibility</b> The Parties reaffirm their commitment to internationally recognized standards, guidelines and principles of corporate social responsibility that have been adopted or are supported by the Parties, including the OECD Guidelines for Multinational Enterprises, and each Party shall endeavour to encourage persons operating in its territory or subject to its jurisdiction to voluntarily incorporate these standards, guidelines and principles into their business practices and internal policies. These standards, guidelines and principles address issues such as employment, environment, gender equality, human rights, community relations and anti-corruption. <sup>1</sup>	<b>Yes:</b> specific dispute settlement mechanism (consultations).
<a href="#">Argentina-Japan BIT</a>	01/12/2018 Not yet in force	General clause	<b>No</b>	<b>No</b>	<b>Article 17: Corporate Social Responsibility</b> The Contracting Parties reaffirm the importance that each of them encourages enterprises operating within its Area or subject to its jurisdiction to voluntarily incorporate into their internal policies those internationally recognised standards, guidelines and principles of corporate social responsibility that have been endorsed or are supported by that Contracting Party. <sup>2</sup>	<b>Yes:</b> SSDS and Investor-State Dispute Settlement (ISDS).
<a href="#">Argentina – Qatar BIT</a>	06/11/2016 Not yet in force	General clause	<b>No</b>	<b>No</b>	<b>Article 12: Corporate Social Responsibility</b> Investors operating in the territory of the host Contracting Party should make efforts to voluntarily incorporate internationally recognized standards of corporate social responsibility into their business policies and practices.	<b>Yes:</b> SSDS and ISDS.
<a href="#">Brazil – Angola CFIA</a>	01/04/2015 In force	Labour Environment Human Rights Anti-corruption	<b>No</b>	<b>No</b>	<b>Article 10: Corporate Social Responsibility</b> Investors and their investments should strive to achieve the highest possible level of contributions to the sustainable development of the receiving State and the local community, through the adoption of a high degree of socially responsible practices, by reference to the voluntary principles and standards set in Annex II - "Corporate Social Responsibility".  <b>Annex II: Corporate Social Responsibility</b> Investors and their investments will develop its best efforts to observe the following voluntary principles and standards for responsible business conduct consistent with the laws adopted by the State Party receiving the investment: i. Respect the protection of the environment and sustainable development and encourage the use of technologies that do not harm the environment, in accordance with the national policies of the Parties in order to encourage economic, social and environmental progress; ii. Respect the human rights of those involved in the activities of these companies in accordance with international obligations and commitments of the receiving Party; iii. Encourage the strengthening of local capacities, through close cooperation with the local community; iv. Encourage the formation of human capital, in particular by creating employment opportunities and facilitating access of workers to training; v. Observe the laws on health, safety, the environment and labor commercial or industrial standards;	<b>Yes:</b> specific dispute settlement mechanism (Joint Committee).

Agreement	Signature date and status	Areas of the MNE Guidelines covered by the clause	Ref. to international RBC instruments in the clause (Yes/No)	Ref. to due diligence in the clause (Yes/No)	Relevant extracts from the agreement	Clause subject to dispute settlement (Yes/No)
					vi. Refrain from seeking or accepting exemptions that are not established in the receiving Party's law with respect to environmental, health, safety, labor, financial incentives or other issues; vii. Support and maintain the principles of good corporate governance, and develop and apply good corporate management practices; viii. Develop and implement effective autoregulated practices and management systems that foster mutual trust between enterprises and the societies in which they conduct their operations; ix. Promote knowledge workers as the business policy through the appropriate dissemination of this policy, including using professional training programs; x. Refrain from discriminatory or disciplinary action against employees who make serious reports to management or, where appropriate, the competent public authorities, on practices that contravene the law or violate the standards of good corporate governance to which the company is subject; xi. Encourage, where practicable, business partners, including contractors and service providers, to apply principles of corporate conduct in accordance with the principles set out in this article; xii. Respect the processes and local political activities. <sup>3</sup>	
<a href="#">Brazil – Chile CFIA</a>	24/11/2015 Not yet in force	Labour Environment Human Rights Anti-corruption	<b>Yes:</b> OECD MNE Guidelines.	<b>No</b>	<b>Article 15: Social Responsibility Policies</b> 1. The Parties recognise the importance of promoting enterprises operating within its territory or subject to its jurisdiction to implement policies and sustainability of social responsibility and to promote the development of the host country. 2. Investors and their investment shall develop their best efforts to comply with the OECD Guidelines for Multinational Enterprises of the Organisation for Economic Cooperation and Development, in particular: (a) To contribute to the achievement of economic, social and environmental matters with a view to achieving sustainable development; (b) Respect internationally recognized human rights of persons involved in the activities of the enterprise; (c) Encourage the creation of local capacities through close cooperation with the local community; (d) Promote the training of human capital, in particular through the creation of employment opportunities and training for employees; (e) Refrain from seeking or accepting exemptions not covered under the legal or regulatory framework relating to human rights, the environment, health, safety, labour, the tax system, the financial incentives, or other matters; (f) Support and defend the principles of good corporate governance and develop and implement good practices of corporate governance; (g) Develop and implement self-disciplinary practices and effective management systems that foster mutual trust between enterprises and companies in which they exercise their activity; (h) Promote awareness and compliance by employees of the policies of company through appropriate dissemination, including through training programmes; (i) To refrain from taking discriminatory or disciplinary measures against workers that develop, in good faith, reports to the direction or, where appropriate, to the competent public authorities about practices contrary to law or policies of the enterprise; (j) Promote, to the extent possible, that its trading partners, including suppliers and contractors implement the principles of	<b>Yes:</b> specific dispute settlement mechanism (Joint Committee and consultations).

Agreement	Signature date and status	Areas of the MNE Guidelines covered by the clause	Ref. to international RBC instruments in the clause (Yes/No)	Ref. to due diligence in the clause (Yes/No)	Relevant extracts from the agreement	Clause subject to dispute settlement (Yes/No)
					business conduct consistent with the principles set out in this Article; and (k) Refrain from any undue interference in local political activities. <sup>4</sup>	
<a href="#">Brazil – Chile FTA</a> (Chapters 8 and 9)	21/11/2018 In force	Labour Environment Human Rights Anti-corruption	Yes: OECD MNE Guidelines.	No	<p><b>Article 8.15: Social Responsibility Policies</b></p> <p>1. The Parties recognize the importance of promoting that the companies that operate in their territory or that are subject to its jurisdiction apply sustainability policies and social responsibility and that drive the development of the country that receives the investment.</p> <p>2. Investors and their investments should develop their best efforts to comply with the OECD Guidelines for Multinational Enterprises of the Organization for Economic Cooperation and Development, in particular:</p> <p>(a) Contribute to economic, social and environmental progress, with a view to achieving sustainable development;</p> <p>(b) Respect the internationally recognized human rights of people involved in the activities of the companies;</p> <p>(c) Stimulate the generation of local capacities through close collaboration with the local community;</p> <p>(d) Promote the formation of human capital, especially through the creation of employment opportunities, and offering training to employees;</p> <p>(e) Refrain from seeking or accepting exemptions not contemplated in the legal framework or regulatory framework related to human rights, the environment, health, security, work, tax system, financial incentives, or other questions;</p> <p>(f) Support and defend the principles of good corporate governance, and develop and implement good corporate governance practices;</p> <p>(g) Develop and implement self-discipline practices and management systems as effective ways of promoting a relationship of mutual trust between companies and societies in which they carry out their activity;</p> <p>(h) Promote knowledge and compliance, by employees, of the company policies through proper dissemination of them, including through training programs;</p> <p>(i) Refrain from taking discriminatory or disciplinary measures against workers who prepare, in good faith, reports to the management or, where appropriate, for the competent public authorities about practices contrary to the law or the policies of the company;</p> <p>(j) Encourage, as far as possible, that its business partners, including suppliers and contractors, apply the principles of business conduct compatible with the principles set forth in this Article, and</p> <p>(k) Refrain from undue interference in local political activities.<sup>5</sup></p>	Yes: specific dispute settlement mechanism (Joint Committee and consultations).
<a href="#">Brazil – Colombia CFIA</a>	09/10/2015 In force	Labour Environment Human Rights Anti-corruption	No	No	<p><b>Article 13: Corporate Social Responsibility</b></p> <p>Each Party will seek companies operating in their territory or who are subject to its jurisdiction incorporate the following voluntary principles and standards for responsible business conduct:</p> <p>(a) Contribute to the economic, social and environmental progress with a view to achieve sustainable development;</p> <p>(b) Respect internationally recognized human rights of those involved in business activities;</p> <p>(c) Encourage the creation of local capacity, through close collaboration with the local community;</p> <p>(d) Encourage the formation of human capital, in particular by creating employment opportunities and providing training to employees;</p>	Yes: specific dispute settlement mechanism (Joint Committee).

Agreement	Signature date and status	Areas of the MNE Guidelines covered by the clause	Ref. to international RBC instruments in the clause (Yes/No)	Ref. to due diligence in the clause (Yes/No)	Relevant extracts from the agreement	Clause subject to dispute settlement (Yes/No)
					<p>(e) Refrain from seeking or accepting exemptions not contemplated in the legal or regulatory framework related to human rights, the environment, health, safety, labor, the tax system, financial incentives or other issues;</p> <p>(f) To support and defend the principles of good corporate governance and to develop and implement good corporate governance practices;</p> <p>(g) Develop and implement self-regulatory practices and effective management systems that foster a relationship of mutual trust between enterprises and the societies in which they exercise their activity;</p> <p>(h) Promote knowledge and compliance by employees, of company policies through its appropriate dissemination, including through training programs;</p> <p>(i) Refrain from discriminatory or disciplinary action against employees who draw up, in good faith, reports to management or, where appropriate, the competent public authorities, on practices contrary to law or company policies;</p> <p>(j) Promote, as far as possible, their business partners, including service providers and contractors, to apply principles of corporate conduct consistent with the principles set out in this Article; and</p> <p>(k) Abstain from any improper involvement in local political activities.<sup>6</sup></p>	
<p><a href="#">Brazil – Ecuador CFIA</a></p>	<p>25/09/2019 Not yet in force</p>	<p>Labour Environment Human Rights Anti-corruption</p>	<p>No</p>	<p>No</p>	<p><b>Article 14: Corporate Social Responsibility</b></p> <p>1. Investors and their investment shall strive to achieve the highest possible level of contribution to the sustainable development of the Host State and the local community, through the adoption of a high degree of socially responsible practices, based on the principles and voluntary norms set out in this Article.</p> <p>2. The investors and their investment shall endeavour to comply with the following principles and norms for a responsible business conduct and consistent with the laws adopted by the Host State receiving the investment:</p> <p>a) Contribute to the economic, social and environmental progress, aiming at achieving sustainable development;</p> <p>b) Respect the internationally recognized human rights of those involved in the companies' activities;</p> <p>c) Encourage local capacity building through close cooperation with the local community;</p> <p>d) Encourage the creation of human capital, especially by creating employment opportunities and offering professional training to workers;</p> <p>e) Refrain from seeking or accepting exemptions that are not established in the legal or regulatory framework relating to human rights, environment, health, security, work, tax system, financial incentives, or other issues;</p> <p>f) Support and advocate for good corporate governance principles, and develop and apply good practices of corporate governance;</p> <p>g) Develop and implement effective self-regulatory practices and management systems that foster a relationship of mutual trust between the companies and the societies in which its operations are conducted;</p> <p>h) Promote knowledge and compliance, by employees, of company policies by properly disseminating them, including through training programs;</p> <p>i) Refrain from taking discriminatory or disciplinary measures against workers who prepare, in good faith, management reports or, where appropriate, for the competent public authorities about practices contrary to the law or company policies;</p> <p>j) Encourage, whenever possible, business associates, including service providers and outsources, to apply the principles of business conduct consistent with the principles provided for in this Article; and</p>	<p><b>Yes:</b> specific dispute settlement mechanism (Joint Committee).</p>



Agreement	Signature date and status	Areas of the MNE Guidelines covered by the clause	Ref. to international RBC instruments in the clause (Yes/No)	Ref. to due diligence in the clause (Yes/No)	Relevant extracts from the agreement	Clause subject to dispute settlement (Yes/No)
<a href="#">Brazil – Ethiopia CFIA</a>	11/04/2018 Not yet in force	Labour Environment Human Rights Anti-corruption	Yes: OECD MNE Guidelines.	No	<p>k) Refrain from any undue interference in local political activities.<sup>7</sup></p> <p><b>Article 14: Corporate Social Responsibility</b></p> <p>1. Investors and their investment shall strive to achieve the highest possible level of contribution to the sustainable development of the Host State and the local community, through the adoption of a high degree of socially responsible practices, based on the principles and standards set out in this Article and the OECD Guidelines for Multinational Enterprises (MNEs) as may be applicable on the State Parties.</p> <p>2. Investors and their investment shall endeavour to comply with the following principles and standards for a responsible business conduct and consistent with the laws adopted by the Host State:</p> <p>a) Contribute to the economic, social and environmental progress, aiming at achieving sustainable development;</p> <p>b) Respect the internationally recognized human rights of those involved in the investors' activities;</p> <p>c) Encourage local capacity building through close cooperation with the local community;</p> <p>d) Encourage the creation of human capital, especially by creating employment opportunities and offering professional training to workers;</p> <p>e) Refrain from seeking or accepting exemptions that are not established in the legal or regulatory framework relating to human rights, environment, health, security, work, tax system, financial incentives, or other issues;</p> <p>f) Support and advocate for good corporate governance principles, and develop and apply good practices of corporate governance;</p> <p>g) Develop and implement effective self-regulatory practices and management systems that foster a relationship of mutual trust between the investment and the societies in which its operations are conducted;</p> <p>h) Promote the knowledge of and the adherence to, by workers, the corporate policy, through appropriate dissemination of this policy, including programs for professional training;</p> <p>i) Refrain from discriminatory or disciplinary action against employees who submit grave reports to the board or, whenever appropriate, to the competent public authorities, about practices that violate the law or corporate policy;</p> <p>j) Encourage, whenever possible, business associates, including service providers and outsources, to apply the principles of business conduct consistent with the principles provided for in this Article; and</p> <p>k) Refrain from any undue interference in local political activities.</p>	Yes: specific dispute settlement mechanism (Joint Committee).
<a href="#">Brazil – Guyana CFIA</a>	13/12/2018 Not yet in force	Labour Environment Human Rights Anti-corruption	No	No	<p><b>Article 15: Corporate Social Responsibility</b></p> <p>1. Investors and their investment shall strive to achieve the highest possible level of contribution to the sustainable development of the Host State and the local community, through the adoption of a high degree of socially responsible practices, based on the voluntary principles and standards set out in this Article.</p> <p>2. The investors and their investment shall endeavour to comply with the following voluntary principles and standards for a responsible business conduct and consistent with the laws adopted by the Host State receiving the investment:</p> <p>a) Contribute to the economic, social and environmental progress, aiming at achieving sustainable development;</p> <p>b) Respect the internationally recognized human rights of those involved in the enterprises' activities;</p> <p>c) Encourage local capacity building through dose cooperation with the local community;</p>	Yes: specific dispute settlement mechanism (Joint Committee).

Agreement	Signature date and status	Areas of the MNE Guidelines covered by the clause	Ref. to international RBC instruments in the clause (Yes/No)	Ref. to due diligence in the clause (Yes/No)	Relevant extracts from the agreement	Clause subject to dispute settlement (Yes/No)
					<p>d) Encourage the creation of human capital, especially by creating employment opportunities and offering professional training to workers;</p> <p>e) Refrain from seeking or accepting exemptions that are not established in the legal or regulatory framework relating to human rights, environment, health, security, work, tax system, financial incentives, or other issues;</p> <p>f) Support and advocate for good corporate governance principles, and develop and apply good practices of corporate governance;</p> <p>g) Develop and implement effective self-regulatory practices and management systems that foster a relationship of mutual trust between the enterprises and the societies in which its operations are conducted;</p> <p>h) Promote the knowledge of and the adherence to the corporate policy by workers, through appropriate dissemination of this policy, including programmes for professional training;</p> <p>i) Refrain from discriminatory or disciplinary action against employees who submit grave reports to the board or, whenever appropriate, to the competent public authorities, about practices that violate the law or corporate policy;</p> <p>j) Encourage, whenever possible, business associates, including service providers and outsources, to apply the principles of business conduct consistent with the principles provided for in this Article; and</p> <p>k) Refrain from any undue interference in local political activities.</p>	
<p><a href="#">Brazil – India CFIA</a></p>	<p>25/01/2020 Not yet in forcé</p>	<p>Labour Environment Human Rights Anti-corruption</p>	<p>No</p>	<p>No</p>	<p><b>Article 12: Corporate Social Responsibility</b></p> <p>1. Investors and their investments shall strive to achieve the highest possible level of contribution to the sustainable development of the Host State and the local community, through the adoption of a high degree of socially responsible practices, based on the voluntary principles and standards set out in this Article and internal policies, such as statements of principle that have been endorsed or are supported by the Parties.</p> <p>2. The investors and their investments shall endeavour to comply with the following voluntary principles and standards for a responsible business conduct and consistent with the laws adopted by the Host State:</p> <p>a) Contribute to the economic, social and environmental progress, aiming at achieving sustainable development;</p> <p>b) Respect the internationally recognized human rights of those involved in the companies' activities;</p> <p>c) Encourage local capacity building through close cooperation with the local community;</p> <p>d) Encourage the creation of human capital, especially by creating employment opportunities and offering professional training to workers;</p> <p>e) Refrain from seeking or accepting exemptions that are not established in the legal or regulatory framework relating to human rights, environment, health, security, work, tax system, financial incentives, or other issues;</p> <p>f) Support and advocate for good corporate governance principles, and develop and apply good corporate governance practices, including anti-corruption measures;</p> <p>g) Develop and implement effective self-regulatory practices and management systems that foster a relationship of mutual trust between the companies and the societies in which their operations are conducted;</p> <p>h) Promote the knowledge of and the adherence, by workers, to the corporate policy, through appropriate dissemination of this policy, including professional training programs;</p> <p>i) Refrain from discriminatory or disciplinary action against employees who submit grave reports to the board or, whenever</p>	<p>Yes: SSDS and specific dispute settlement mechanism (Joint Committee).</p>

Agreement	Signature date and status	Areas of the MNE Guidelines covered by the clause	Ref. to international RBC instruments in the clause (Yes/No)	Ref. to due diligence in the clause (Yes/No)	Relevant extracts from the agreement	Clause subject to dispute settlement (Yes/No)
					appropriate, to the competent public authorities, about practices that violate the law or corporate policy; j) Encourage, whenever possible, business associates, including service providers and outsources, to apply the principles of business conduct consistent with the principles provided for in this Article; and k) Refrain from any undue interference in local political activities.	
<a href="#">Brazil – Malawi CFIA</a>	25/06/2015 Not yet in force	Labour Environment Human Rights Anti-corruption	No	No	<b>Article 9: Corporate Social Responsibility</b> 1. Investors and their investment shall strive to achieve the highest possible level of contribution to the sustainable development of the Host Party and the local community, through the adoption of a high degree of socially responsible practices, based on the voluntary principles and standards set out in this Article. 2. The investors and their investment shall develop their best efforts to comply with the following voluntary principles and standards for a responsible business conduct and consistent with the laws adopted by the Host Party receiving the investment: a) Stimulate the economic, social and environmental progress, aiming at achieving sustainable development; b) Respect the human rights of those involved in the companies' activities, consistent with the international obligations and commitments of the Host Party; c) Encourage the strengthening of local capacities building through close cooperation with the local community; d) Encourage the development of human capital, especially by creating employment opportunities and facilitating access of workers to professional training; e) Refrain from seeking or accepting exemptions that are not established in the legislation of the Host Party, relating to environment, health, security, work or financial incentives, or other issues; f) Support and maintain good corporate governance principles, and develop and apply good practices of corporate governance; g) Develop and apply effective self-regulatory practices and management systems that foster a relationship of mutual trust between the companies and the society in which the operations are conducted; h) Promote the knowledge of workers about the corporate policy, through appropriate dissemination of this policy, including programs for professional training; i) Refrain from discriminatory or disciplinary action against the employees who submit grave reports to the board or, whenever appropriate, to the competent public authorities, about practices that violate the law or violate the standards of corporate governance that the company is subject to; j) Encourage, whenever possible, the business associates, including service providers and outsources, to apply the principles of business conduct consistent with the principles provided in this Article; and k) Respect local political activities and processes.	<b>Yes:</b> specific dispute settlement mechanism (Joint Committee).
<a href="#">Brazil – Mexico CFIA</a>	26/05/2015 In force	Labour Environment Human Rights Anti-corruption	No	No	<b>Article 13: Corporate Social Responsibility</b> 1. Investors and their investment shall endeavour to achieve the highest possible level of contribution to the sustainable development of the host State and the local community, through the adoption of a high degree of socially responsible practices, on the basis of the voluntary principles and standards set out in this article. 2. Investors and their investment shall develop their best efforts to comply with the following voluntary principles and standards for a responsible corporate behaviour and consistent with applicable laws in force in the Host State that receives the investment:	<b>Yes:</b> SSDS and specific dispute settlement mechanism (Joint Committee).

Agreement	Signature date and status	Areas of the MNE Guidelines covered by the clause	Ref. to international RBC instruments in the clause (Yes/No)	Ref. to due diligence in the clause (Yes/No)	Relevant extracts from the agreement	Clause subject to dispute settlement (Yes/No)
					<p>a) Stimulate economic, social and environmental progress, with a view to achieving sustainable development;</p> <p>b) Respect for human rights of persons involved in the activities of enterprises, in accordance with international obligations and commitments of the Host State;</p> <p>c) Promote the strengthening of local capacities through close collaboration with the local community;</p> <p>d) Encourage the development of human capital, in particular through the creation of employment opportunities and facilitate the access of workers to training;</p> <p>e) Refrain from seeking or accepting exemptions which are not covered by the legislation of the Host State, in relation to the environment, health, safety or financial incentives, or other matter;</p> <p>f) Support and maintain principles of corporate governance and develop and implement the good practices of corporate governance;</p> <p>g) Develop and implement self-regulatory practices and effective management systems that foster mutual trust between enterprises and companies which lead operations;</p> <p>h) Promote awareness of workers on enterprise policy, through appropriate dissemination of this policy, including vocational training programmes;</p> <p>i) Refrain from taking discriminatory or disciplinary measures against employees that submit reports to the Board or, where appropriate, the competent public authorities, on practices that violate the law or violate the standards of corporate governance to which the company is subject;</p> <p>j) Encourage, where possible, trade partners, including direct service suppliers and contractors, to apply the principles of business conduct consistent with the principles set out in this Article; and</p> <p>k) Respecting the activities and the local political system.<sup>8</sup></p>	
<p><a href="#">Brazil – Morocco CFIA</a></p>	<p>13/06/2019 Not yet in force</p>	<p>Labour Environment Human Rights Anti-corruption</p>	<p>No</p>	<p>No</p>	<p><b>Article 13: Corporate Social Responsibility</b></p> <p>1. Investors and their investments shall endeavor to achieve the highest possible level of contribution to the sustainable development of the Host Party and the local community by adopting a high degree of socially responsible practices, based on the voluntary principles and standards set forth in this Article.</p> <p>2. Investors and their investments shall make their best efforts to comply with the following voluntary principles and standards for responsible business conduct and in accordance with the laws adopted by the host Party receiving the investment:</p> <p>(a) Stimulate economic, social and environmental progress with a view to achieving sustainable development;</p> <p>(b) Respect the human rights of those involved in the business activities in accordance with the Host Party's international obligations and commitments;</p> <p>(c) Encourage local capacity building through close collaboration with the local community;</p> <p>(d) Encourage the development of human capital, in particular by creating employment opportunities and facilitating workers' access to vocational training;</p> <p>(e) Refrain from seeking or accepting exemptions not provided for in the Host Party's legislation relating to the environment, public health, safety, work, financial incentives or other areas;</p> <p>(f) Support and maintain the principles of good corporate governance, develop and implement good corporate governance practices;</p>	<p><b>Yes:</b> SSDS and specific dispute settlement mechanism (Joint Committee).</p>

Agreement	Signature date and status	Areas of the MNE Guidelines covered by the clause	Ref. to international RBC instruments in the clause (Yes/No)	Ref. to due diligence in the clause (Yes/No)	Relevant extracts from the agreement	Clause subject to dispute settlement (Yes/No)
					<p>(g) Improve the transparency of its activities in the fight against corruption and extortion, and maintain accurate and reliable books, records and accounts which ensure that they cannot be used for the purposes of corruption and the concealment of acts of corruption;</p> <p>(h) Refrain from offering, promising, granting or directly or indirectly soliciting unlawful payments or other improper advantages with a view to obtaining or maintaining a business or other improper advantage;</p> <p>(i) Adopt internal control mechanisms and appropriate ethics and compliance programs or measures to prevent and detect corruption;</p> <p>(j) Develop and implement effective self-discipline practices and management systems that foster a relationship of mutual trust between the companies and societies in which operations are performed;</p> <p>(k) Promote workers' knowledge of corporate policy, through the appropriate dissemination of this policy, including through professional training programs;</p> <p>(l) Refrain from any discriminatory or disciplinary action against employees who report to the Board of Directors or, where appropriate, to competent public authorities, practices that violate the law or violate the corporate governance rules to which the company is subject;</p> <p>m) Encourage, as far as possible, business partners, including suppliers and subcontractors, to apply the principles of business conduct consistent with the principles set out in this Article;</p> <p>n) Respect local political activities and processes.<sup>9</sup></p>	
<a href="#">Brazil – Mozambique CFIA</a>	30/03/2015 Not yet in force	Labour Environment Human Rights Anti-corruption	<b>No</b>	<b>No</b>	<p><b>Article 10: Corporate Social Responsibility</b>            Investors and their investments should strive to achieve the highest possible level of contributions to the sustainable development of the receiving State and the local community, through the adoption of a high degree of socially responsible practices, by reference to the voluntary principles and standards set in Annex II - "Corporate Social Responsibility".</p> <p><b>Annex II: Corporate Social Responsibility</b>            Investors and their investments will develop its best efforts to observe the following voluntary principles and standards for responsible business conduct, consistent with the laws adopted by the State Party receiving the investment:</p> <p>i. Foster economic, social and environmental progress in order to achieve sustainable development;</p> <p>ii. Respect the human rights of those involved in the activities of these companies, consistent with international obligations and commitments of the receiving Party;</p> <p>iii. Encourage the strengthening of local capacities, through close cooperation with the local community;</p> <p>iv. Encourage the formation of human capital, in particular by creating employment opportunities and facilitating access of workers to training;</p> <p>v. Refrain from seeking or accepting exemptions not established in the legislation of the receiving Party in relation to the environment, health, safety, labor, financial incentives or other issues;</p> <p>vi. Support and maintain the principles of good corporate governance, and develop and apply good corporate governance practices;</p> <p>vii. Develop and implement effective autoregulated practices and management systems that foster mutual trust between</p>	<b>Yes:</b> specific dispute settlement mechanism (Joint Committee).

Agreement	Signature date and status	Areas of the MNE Guidelines covered by the clause	Ref. to international RBC instruments in the clause (Yes/No)	Ref. to due diligence in the clause (Yes/No)	Relevant extracts from the agreement	Clause subject to dispute settlement (Yes/No)
					<p>companies and the companies through which they conduct their operations;</p> <p>viii. Promote the knowledge of workers of the business policy through the appropriate dissemination of this policy, including using professional training programs;</p> <p>ix. Refrain from discriminatory or disciplinary action against employees who make serious reports to management or, where appropriate, the competent public authorities, on practices breaking the law or violating the standards of good corporate governance to which the company is subject;</p> <p>x. Encourage, where practicable, business partners, including contractors and service providers, to apply principles of corporate conduct consistent with the principles set out in this article;</p> <p>xi. Respect the processes and local political activities.<sup>10</sup></p>	
<p><a href="#">Brazil – Peru ETEA</a> (Chapter 2)</p>	<p>29/04/2016 Not yet in force</p>	<p>Labour Environment Human Rights Anti-corruption</p>	<p>No</p>	<p>No</p>	<p><b>Article 2.13: Corporate Social Responsibility</b></p> <p>1. The Parties recognize the importance of promoting that companies operating in their territory or subject to their jurisdiction apply policies of sustainability and social responsibility and that foster the development of the country receiving the investment.</p> <p>2. Investors and their investments shall use their best efforts to comply with the following voluntary principles and standards for responsible corporate conduct consistent with the laws approved by the Host State receiving the investment:</p> <p>(a) Contribute to economic, social and environmental progress with a view to achieving sustainable development;</p> <p>(b) Respect the internationally recognized human rights of persons involved in the activities of enterprises;</p> <p>(c) Stimulate local capacity building through close collaboration with the local community;</p> <p>(d) Promote human capital formation, in particular through the creation of employment opportunities, and by providing training to employees;</p> <p>(e) Refrain from seeking or accepting exemptions not contemplated in the legal or regulatory framework relating to human rights, the environment, health, safety, labor, financial incentives, or other issues;</p> <p>(f) Support and defend the principles of good corporate governance, and develop and implement good corporate governance practices;</p> <p>(g) Develop and implement self-disciplinary practices and effective management systems that promote a relationship of mutual trust between the companies and the societies in which they operate;</p> <p>(h) Promote employee awareness and compliance with company policies, through appropriate dissemination of these policies, including through training programs;</p> <p>(i) Refrain from discriminatory or disciplinary measures against workers who, in good faith, report to the management or, where appropriate, to the competent public authorities on practices contrary to law or company policies;</p> <p>(j) Encourage, to the extent possible, its business partners, including suppliers and contractors, to apply principles of business conduct consistent with the principles set out in this Article; and</p> <p>(k) Refrain from any undue interference in local political activities.<sup>11</sup></p>	<p><b>Yes:</b> specific dispute settlement mechanism (Joint Committee and consultations).</p>



Agreement	Signature date and status	Areas of the MNE Guidelines covered by the clause	Ref. to international RBC instruments in the clause (Yes/No)	Ref. to due diligence in the clause (Yes/No)	Relevant extracts from the agreement	Clause subject to dispute settlement (Yes/No)
<a href="#">Brazil - São Tomé and Príncipe CFIA</a>	27/08/2023 Not yet in force	Labour Environment Human Rights Anti-corruption	No	No	<p><b>Article 15: Corporate Social Responsibility</b></p> <p>1. Investors and their investment shall strive to achieve the highest possible level of contribution to the sustainable development of the Host State and the local community, through the adoption of a high degree of socially responsible practices, based on the voluntary principles and standards set out in this Article.</p> <p>2. The investors and their investment shall endeavour to comply with the following voluntary principles and standards for a responsible business conduct and consistent with the laws adopted by the Host State:</p> <p>a) Contribute to the economic, social and environmental progress, aiming at achieving sustainable development;</p> <p>b) Respect the internationally recognized human rights of those involved in the investors' activities;</p> <p>c) Encourage local capacity building through dose cooperation with the local community;</p> <p>d) Encourage the creation of human capital, especially by creating employment opportunities and offering professional training to workers;</p> <p>e) Refrain from seeking or accepting exemptions that are not established in the legal or regulatory framework relating to human rights, environment, health, security, work, tax system, financial incentives, or other issues;</p> <p>f) Support and advocate for good corporate governance principles, and develop and apply good practices of corporate governance;</p> <p>g) Develop and implement effective self-regulatory practices and management systems that foster a relationship of mutual trust between the companies and the societies in which its operations are conducted;</p> <p>h) Promote the knowledge of and the adherence to, by workers, the corporate policy, through appropriate dissemination of this policy, including programs for professional training;</p> <p>i) Refrain from discriminatory or disciplinary action against employees who submit grave reports to the board or, whenever appropriate, to the competent public authorities, about practices that violate the law or corporate policy;</p> <p>j) Encourage, whenever possible, business associates, including service providers and outsources, to apply the principles of business conduct consistent with the principles provided for in this Article; and</p> <p>k) Refrain from any undue interference in local political activities.<sup>12</sup></p>	Yes: specific dispute settlement mechanism (Joint Committee).
<a href="#">Brazil – Suriname CFIA</a>	02/05/2018 Not yet in force	Labour Environment Human Rights Anti-corruption	No	No	<p><b>Article 15: Corporate Social Responsibility</b></p> <p>1. Investors and their investment shall strive to achieve the highest possible level of contribution to the sustainable development of the Host State and the local community, through the adoption of a high degree of socially responsible practices, based on the voluntary principles and standards set out in this Article.</p> <p>2. The investors and their investment shall endeavour to comply with the following voluntary principles and standards for a responsible business conduct and consistent with the laws adopted by the Host State:</p> <p>a) Contribute to the economic, social and environmental progress, aiming at achieving sustainable development;</p> <p>b) Respect the internationally recognized human rights of those involved in the investors' activities;</p> <p>c) Encourage local capacity building through dose cooperation with the local community;</p> <p>d) Encourage the creation of human capital, especially by creating employment opportunities and offering professional training to workers;</p> <p>e) Refrain from seeking or accepting exemptions that are not established in the legal or regulatory framework relating to human</p>	Yes: specific dispute settlement mechanism (Joint Committee).

Agreement	Signature date and status	Areas of the MNE Guidelines covered by the clause	Ref. to international RBC instruments in the clause (Yes/No)	Ref. to due diligence in the clause (Yes/No)	Relevant extracts from the agreement	Clause subject to dispute settlement (Yes/No)
					<p>rights, environment, health, security, work, tax system, financial incentives, or other issues;</p> <p>f) Support and advocate for good corporate governance principles, and develop and apply good practices of corporate governance;</p> <p>g) Develop and implement effective self-regulatory practices and management systems that foster a relationship of mutual trust between the companies and the societies in which its operations are conducted;</p> <p>h) Promote the knowledge of and the adherence to, by workers, the corporate policy, through appropriate dissemination of this policy, including programs for professional training;</p> <p>i) Refrain from discriminatory or disciplinary action against employees who submit grave reports to the board or, whenever appropriate, to the competent public authorities, about practices that violate the law or corporate policy;</p> <p>j) Encourage, whenever possible, business associates, including service providers and outsources, to apply the principles of business conduct consistent with the principles provided for in this Article; and</p> <p>k) Refrain from any undue interference in local political activities.</p>	
<p><a href="#">Brazil – United Arab Emirates CFIA</a></p>	<p>15/03/2019 Not yet in force</p>	<p>Labour Environment Human Rights Anti-corruption</p>	<p><b>Yes:</b> MNE Guidelines.</p>	<p><b>No</b></p>	<p><b>Article 15: Corporate Social Responsibility</b></p> <p>1. Investors and their investment shall strive to achieve the highest possible level of contribution to the sustainable development of the Host State and the local community, through the adoption of a high degree of socially responsible practices, based on the voluntary principles, and standards set out in the OECD Guidelines for Multinational Enterprises.</p> <p>2. The investors and their investment shall endeavor to comply with the following voluntary principles and standards for a responsible business conduct and consistent with the laws adopted by the Host State receiving the investment:</p> <p>a) Contribute to the economic, social and environmental progress, aiming at achieving sustainable development;</p> <p>b) Respect the internationally recognized human rights of those involved in the companies' activities;</p> <p>c) Encourage local capacity building through close cooperation with the local community;</p> <p>d) Encourage the creation of human capital, especially by creating employment opportunities and offering professional training to workers;</p> <p>e) Refrain from seeking or accepting exemptions that are not established in the legal or regulatory framework relating to human rights, environment, health, security, work, tax system, financial incentives, or other issues;</p> <p>f) Support and advocate for good corporate governance principles, and develop and apply good practices of corporate governance;</p> <p>g) Develop and implement effective self-regulatory practices and management systems that foster a relationship of mutual trust between the companies and the societies in which its operations are conducted;</p> <p>h) Promote the knowledge of and the adherence to, by workers, the corporate policy, through appropriate dissemination of this policy, including programs for professional training;</p> <p>i) Refrain from discriminatory or disciplinary action against employees who submit grave reports to the board or, whenever appropriate, to the competent public authorities, about practices that violate the law or corporate policy;</p> <p>j) Encourage, whenever possible, business associates, including service providers' and outsources, to apply the principles of business conduct consistent with the principles provided for in this Article; and</p> <p>k) Refrain from any undue interference in local political activities.</p>	<p><b>Yes:</b> specific dispute settlement mechanism (Joint Committee).</p>

Agreement	Signature date and status	Areas of the MNE Guidelines covered by the clause	Ref. to international RBC instruments in the clause (Yes/No)	Ref. to due diligence in the clause (Yes/No)	Relevant extracts from the agreement	Clause subject to dispute settlement (Yes/No)
<a href="#">Chile-Canada FTA</a> (Chapter G)	05/02/2019 In force	Labour Environment Human Rights Anti-corruption	Yes: MNE Guidelines.	No	<b>Article G-14 bis: Corporate Social Responsibility</b> The Parties reaffirm their commitment to internationally recognized standards, guidelines and principles of corporate social responsibility that have been endorsed or are supported by the Parties, including the OECD Guidelines for Multinational Enterprises, and each Party should encourage enterprises operating within its territory or subject to its jurisdiction to voluntarily incorporate these standards, guidelines and principles into their business practices and internal policies. These standards, guidelines and principles address issues such as labour, environment, gender equality, human rights, community relations, and anti-corruption. <sup>13</sup>	No
<a href="#">Chile – Hong Kong BIT</a>	18/11/2016 In force	General clause	No	No	<b>Article 16: Corporate Social Responsibility</b> The Parties reaffirm the importance of each Party encouraging enterprises operating within its area to voluntarily incorporate into their internal policies those internationally recognised standards, guidelines and principles of corporate social responsibility that have been endorsed or are supported by that Party. <sup>14</sup>	Yes: SSDS and specific dispute settlement mechanism (Investment Committee).
<a href="#">Colombia – Canada FTA</a> (Chapter 8)	21/11/2008 In force	Labour Environment Human Rights Anti-corruption	No	No	<b>Article 816: Corporate Social Responsibility</b> Each Party should encourage enterprises operating within its territory or subject to its jurisdiction to voluntarily incorporate internationally recognized standards of corporate social responsibility in their internal policies, such as statements of principle that have been endorsed or are supported by the Parties. These principles address issues such as labour, the environment, human rights, community relations and anti-corruption. The Parties remind those enterprises of the importance of incorporating such corporate social responsibility standards in their internal policies. <sup>15</sup>	Yes: SSDS and specific dispute settlement mechanism (Investment Committee).
<a href="#">Colombia – Costa Rica FTA</a> (Chapter 12)	22/05/2013 In force	Labour Environment Human Rights Anti-corruption	No	No	<b>Article 12.9: Corporate Social Responsibility</b> Each Party shall encourage enterprises operating within its territory or subject to its jurisdiction to incorporate voluntarily within their domestic policies, internationally recognized standards of corporate social responsibility that have been approved by the parties. These principles address issues such as labour rights, the environment, human rights, relations with the community and the fight against corruption. <sup>16</sup>	Yes: SSDS.
<a href="#">Colombia – France BIT</a>	10/07/2014 In force	Labour Environment Human Rights Anti-corruption	Yes: MNE Guidelines.	No	<b>Article 11: Corporate Social Responsibility</b> Each Contracting Party shall encourage enterprises operating within its territory or subject to its jurisdiction to voluntarily incorporate internationally recognized standards of corporate social responsibility in their domestic policies, such as statements of principle that have been endorsed or are supported by the contracting parties, as the guidelines of the Organisation for Economic Cooperation and Development (OECD) for multinational enterprises. These principles address issues such as labour rights, and the environment, human rights, relations with civil society and the fight against corruption. The contracting parties refer to such undertakings the importance of incorporating such standards of corporate social responsibility in their domestic policies. <sup>17</sup>	Yes: SSDS and ISDS.

Agreement	Signature date and status	Areas of the MNE Guidelines covered by the clause	Ref. to international RBC instruments in the clause (Yes/No)	Ref. to due diligence in the clause (Yes/No)	Relevant extracts from the agreement	Clause subject to dispute settlement (Yes/No)
<a href="#">Colombia – Panama FTA</a> (Chapter 14)	20/09/2013 Not yet in force	Labour Environment Human Rights Anti-corruption	No	No	<b>Article 14.15: Corporate Social Responsibility</b> Each Party shall encourage enterprises operating in its territory, or subject to its jurisdiction, to incorporate, on a voluntary basis, internationally recognized standards of corporate social responsibility into their internal policies, such as statements of principles that have been approved or endorsed by the Parties. These principles address issues such as environmental and human rights, community relations and anti-corruption. <sup>18</sup>	Yes: SSDS.
<a href="#">Colombia – Spain BIT</a>	16/09/2021 Not yet in force	General clause	Yes: MNE Guidelines.	No	<b>Article 17: Social Responsibility of Investors</b> Each Contracting Party shall encourage the application of the Guidelines for Multinational Enterprises of the Organisation for Economic Co-operation and Development - OECD. <sup>19</sup>	Yes: SSDS.
<a href="#">Costa Rica – Ecuador FTA</a> (Chapter 15)	01/03/2023 Not yet in force	General clause	No	Yes	<b>Article 15.16: Responsible Business Conduct</b> 1. The Parties recognise the importance of promoting that companies operating within their territory or subject to their jurisdiction endeavour to adopt a high degree of sustainable and socially responsible policies and practices, thereby fostering sustainable development, responsible investment and gender equality in the host country. 2. The Parties recognise the importance for companies operating within their territory or subject to their jurisdiction to strive to implement due diligence to identify and manage adverse impacts in areas such as environment, human rights and working conditions; in their operations, supply chains and other business relationships. 3. Each Party shall endeavour to encourage companies operating within its territory or subject to its jurisdiction to voluntarily incorporate into their internal policies the internationally recognised standards of responsible business conduct, as well as other international instruments that may be adopted by the Parties on this matter in the future. 4. The Parties agree to exchange information and best practices on the issues covered by this Article. <sup>20</sup>	Yes: SSDS.
<a href="#">Costa Rica – United Arab Emirates BIT</a>	03/10/2017 In force	Labour Environment Human Rights Anti-corruption	No	No	<b>Article 11: Corporate Social Responsibility</b> Each Party shall encourage legal entities operating within its territory or subject to its jurisdiction to voluntarily incorporate into their internal policies those internationally recognized standards of corporate social responsibility that have been endorsed by the Party. These principles relate to topics such as the environment, human rights, relations with local communities and the fight against corruption. <sup>21</sup>	No
<a href="#">Ecuador – China FTA</a> (Chapter 9)	10/05/2023 Not yet in force	General clause	No	No	<b>Article 9.4: Corporate Social Responsibility</b> 1. The Parties reaffirm that investors and their investments shall comply with the host State's domestic laws and regulations on corporate social responsibility or responsible business conduct. 2. Each Party confirms the importance of internationally recognized standards, guidelines and principles of corporate social responsibility or responsible business conduct that have been promoted by that Party. 3. Each Party agrees to encourage investors and enterprises operating within its territory or subject to its jurisdiction to incorporate the standards, guidelines and principles provided for in paragraph 2 into their business practices and internal policies on a voluntary basis. 4. The Parties shall cooperate and facilitate joint initiatives, through the Commission provided for in Article 14.1 (Free Trade	No

Agreement	Signature date and status	Areas of the MNE Guidelines covered by the clause	Ref. to international RBC instruments in the clause (Yes/No)	Ref. to due diligence in the clause (Yes/No)	Relevant extracts from the agreement	Clause subject to dispute settlement (Yes/No)
					Commission), to promote corporate social responsibility or responsible business conduct. <sup>22</sup>	
<a href="#">Mexico – Hong Kong IPPA</a>	23/01/2020 In force	General clause	No	No	<b>Article 13: Corporate Social Responsibility</b> Each Contracting Party may encourage enterprises operating within its area or subject to its jurisdiction to voluntarily incorporate into their internal policies internationally recognised standards, guidelines and principles of corporate social responsibility that are supported by that Contracting Party. <sup>23</sup>	Yes: SSDS.
<a href="#">Panama – Canada FTA</a> (Chapter 9)	14/05/2010 In force	Labour Environment Human Rights Anti-corruption	No	No	<b>Article 9.17: Corporate social responsibility</b> Each Party should encourage enterprises operating within its territory or subject to its jurisdiction to voluntarily incorporate internationally recognized standards of corporate social responsibility in their internal policies, such as those statements of principle that have been endorsed or are supported by the Parties. These principles address issues such as labour, the environment, human rights, and anti-corruption.	Yes: SSDS.
<a href="#">Peru – Australia FTA</a> (Chapter 8)	12/02/2018 Not yet in force	General clause	No	No	<b>Article 8.17: Corporate Social Responsibility</b> Each Party encourages enterprises operating within its territory or subject to its jurisdiction to voluntarily incorporate into their internal policies those internationally recognised standards, guidelines and principles of corporate social responsibility that have been endorsed or are supported by that Party. <sup>24</sup>	Yes: SSDS and ISDS.
<a href="#">Peru – Canada FTA</a> (Chapter 8)	29/05/2008 In force	Labour Environment Human Rights Anti-corruption	No	No	<b>Article 8.10: Corporate Social Responsibility</b> Each Party should encourage enterprises operating within its territory or subject to its jurisdiction to voluntarily incorporate internationally recognized standards of corporate social responsibility in their internal policies, such as statements of principle that have been endorsed or are supported by the Parties. These principles address issues such as labour, the environment, human rights, community relations and anti-corruption. The Parties remind those enterprises of the importance of incorporating such corporate social responsibility standards in their internal policies.	Yes: specific dispute settlement mechanism (Investment Committee).
<b>PLURILATERAL INVESTMENT AGREEMENTS</b>						
<a href="#">Chile – EU Advanced Framework Agreement (Trade and Investment Pillar)</a> (Chapter 17)	13/12/2023 Not yet in force	General clause	Yes: MNE Guidelines, ILO MNE Declaration, and UN Guiding Principles on Business and Human Rights.	Yes	<b>Article 17.24: Responsible Business Conduct</b> 1. Without prejudice to Chapter 33, each Party shall encourage covered investments to incorporate into their internal policies internationally recognised principles and guidelines of corporate social responsibility or responsible business conduct such as the OECD Guidelines for Multinational Enterprises, the ILO Tripartite Declaration for Multinational Enterprises, and the United Nations' Guiding Principles on Business and Human Rights. 2. The Parties reaffirm the importance of investors conducting a due diligence process to identify, prevent, mitigate, and account for the environmental and social risks and impacts of its investment. <sup>25</sup>	Yes: mediation, consultations, and specific dispute settlement mechanism (Investment Court System).

Agreement	Signature date and status	Areas of the MNE Guidelines covered by the clause	Ref. to international RBC instruments in the clause (Yes/No)	Ref. to due diligence in the clause (Yes/No)	Relevant extracts from the agreement	Clause subject to dispute settlement (Yes/No)
<a href="#">Mercosur Cooperation and Facilitation Investment Protocol</a>	07/04/2017 In force	Labour Environment Human Rights Anti-corruption	No	No	<p><b>Article 14: Corporate Social Responsibility</b></p> <p>1. Investors and their investments will strive to achieve the highest possible level of contribution to the sustainable development of the Host State Party and the local community, through the adoption of a high degree of socially responsible practices, based on the principles and voluntary standards established in this Article.</p> <p>2. Investors and their investments must develop their best efforts to comply with the following voluntary principles and standards for responsible business conduct consistent with the laws applied by the Host State Party:</p> <p>(a) Stimulate economic, social and environmental progress, with a view to achieving sustainable development;</p> <p>(b) Respect the human rights of the persons involved in the activities of the companies, in accordance with the obligations and international commitments of the Host State Party;</p> <p>(c) Promote the strengthening of the construction of local capacities through close collaboration with the local community;</p> <p>(d) Promote the development of human capital, especially through the creation of employment opportunities, and facilitate the access of workers to vocational training;</p> <p>(e) Refrain from seeking or accepting exemptions that are not established in the legislation of the Host State Party, in relation to the environment, health, safety, work, financial incentives or other issues;</p> <p>(f) Support and maintain principles of good corporate governance and develop and add good corporate governance practices;</p> <p>(g) Develop and apply self-regulatory practices and effective management systems that promote a relationship of mutual trust between the companies and the society in which the operations are conducted;</p> <p>(h) Promote workers' knowledge of the company's policy through the adequate dissemination of the same, including professional training programs;</p> <p>(i) Refrain from taking discriminatory measures or discipline against employees who submit to the board of directors or, where appropriate, the competent public authorities, reports of violations of the law or of corporate governance standards to which the company is subject;</p> <p>(j) Encourage, when possible, business partners, including suppliers and subcontractors of services, to apply the principles of business conduct compatible with the principles set forth in this Article; and</p> <p>(k) Respect local activities and political system.<sup>26</sup></p>	Yes: SSDS.
<a href="#">Mercosur – Singapore FTA</a> (Chapter 9)	07/12/2023 Not yet in force	General clause	No	Yes	<p><b>Article 9.12: Responsible Business Conduct</b></p> <p>1. Each State Party shall encourage juridical and natural persons of another State Party and their commercial presence within its territory to voluntarily incorporate into their business practices and internal policies internationally recognized principles, standards and guidelines of responsible business conduct that have been endorsed or are supported by that State Party.</p> <p>2. In accordance with its laws and regulations, each State Party should encourage juridical and natural persons of another State Party and their commercial presence within its territory to undertake and maintain meaningful engagement and dialogue, in accordance with international Responsible Business Conduct principles, standards and guidelines that have been endorsed or are supported by that State Party, with indigenous peoples, traditional communities and local communities.</p> <p>3. Each State Party recognises the importance of juridical and natural persons of another State Party and their commercial presence within its territory implementing due diligence in order to identify and address adverse impacts, such as on the environment and labour conditions, in their operations, their supply chains and other business relationships.</p>	Yes: SSDS.



Agreement	Signature date and status	Areas of the MNE Guidelines covered by the clause	Ref. to international RBC instruments in the clause (Yes/No)	Ref. to due diligence in the clause (Yes/No)	Relevant extracts from the agreement	Clause subject to dispute settlement (Yes/No)
					4. Within the framework of the Subcommittee on Investment, the State Parties shall exchange information and best practices on issues covered by paragraphs 1 and 2, including on possible ways to facilitate the uptake of Responsible Business Conduct practices by juridical and natural persons of another State Party and their commercial presence within its territory.	
<a href="#">Pacific Alliance – Singapore FTA</a> (Chapter 8)	26/01/2022 Not yet in force	General clause	Yes: MNE Guidelines.	No	<b>Article 8.17: Corporate Social Responsibility</b> The Parties reaffirm the importance of each Party encouraging enterprises operating within its territory or subject to its jurisdiction to voluntarily incorporate into their internal policies those internationally recognised standards, guidelines and principles of corporate social responsibility, such as the OECD Guidelines for Multinational Enterprises, that have been endorsed or are supported by that Party.	Yes: SSDS and ISDS.
<a href="#">Pacific Alliance Additional Protocol</a> (Chapter 10)	10/02/2014 In force	Labour Environment Human Rights Anti-corruption	Yes: MNE Guidelines.	No	<b>Article 10.30: Social Responsibility Policies</b> 1. The Parties recognise the importance of encouraging enterprises that operate in their territories and that are subject to their jurisdiction to apply policies concerning sustainability and social responsibility and policies that promote the development of the host country's investment. 2. Each Party shall encourage the enterprises that operate within their territory or that are subject to their jurisdiction to voluntarily incorporate internationally-recognised standards of corporate social responsibility into their policies, such as declarations of principles that have been approved or that are supported by the Parties. The Parties shall remind those enterprises of the importance of incorporating said standards of corporate social responsibility into their domestic policies, including among others, human rights, labour rights, environmental considerations, anti-corruption practices, consumer rights, science and technology, competition and taxation. 3. Taking into account the OECD Guidelines for Multinational Enterprises from the Organisation of Economic Cooperation and Development, the Parties undertake to identify and share best practices implemented by the Parties to implement the commitments of the Guidelines and in doing so, maximise the contribution of multinational enterprises to sustainable development. <sup>27</sup>	Yes: specific dispute settlement mechanism (Joint Committee).
<a href="#">TPP/ CPTPP</a> <sup>27</sup> (Chapter 9)	TPP: 04/02/2016 Not yet in force CPTPP: 08/03/2018 In force	General clause	No	No	<b>Article 9.17: Corporate Social Responsibility</b> The Parties reaffirm the importance of each Party encouraging enterprises operating within its territory or subject to its jurisdiction to voluntarily incorporate into their internal policies those internationally recognised standards, guidelines and principles of corporate social responsibility that have been endorsed or are supported by that Party.	Yes: SSDS and ISDS.
<a href="#">USMCA</a> (Chapter 14)	30/11/2018 In force	Labour Environment Human Rights Anti-Corruption	Yes: MNE Guidelines.	No	<b>Article 14.17: Corporate Social Responsibility</b> The Parties reaffirm the importance of each Party encouraging enterprises operating within its territory or subject to its jurisdiction to voluntarily incorporate into their internal policies those internationally recognized standards, guidelines, and principles of corporate social responsibility that have been endorsed or are supported by that Party, which may include the OECD Guidelines for Multinational Enterprises. These standards, guidelines, and principles may address areas such as labor, environment, gender equality, human rights, indigenous and aboriginal peoples' rights, and corruption.	Yes: SSDS.

Agreement	Signature date and status	Areas of the MNE Guidelines covered by the clause	Ref. to international RBC instruments in the clause (Yes/No)	Ref. to due diligence in the clause (Yes/No)	Relevant extracts from the agreement	Clause subject to dispute settlement (Yes/No)
					The Parties reaffirm the importance of each Party encouraging enterprises operating within its territory or subject to its jurisdiction to voluntarily incorporate into their internal policies those internationally recognised standards, guidelines and principles of corporate social responsibility that have been endorsed or are supported by that Party.	

## Notes:

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6. 2015 Brazil-Colombia CFIA, Unofficial English text retrieved from: <https://edit.wti.org/app.php/document/show/20b78a63-c447-4081-ac4e-a5182fa55b7b>.
7. 2019 Brazil-Ecuador CFIA, Unofficial English text retrieved from: [Brazil - Ecuador BIT \(2019\) - Electronic Database of Investment Treaties \(EDIT\) \(wti.org\)](https://www.wti.org/Brazil-Ecuador-BIT-(2019)-Electronic-Database-of-Investment-Treaties-(EDIT)-(wti.org)).
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## Annex C. LAC NCPs' main characteristics and links to trade and investment matters

Table C.1. LAC NCPs' main characteristics and links to trade and investment matters

Country	Location of NCP in government	Links between the NCP location and trade and investment matters	NCP structure	Involvement of other government entities and stakeholders in the NCP structure that supports policy coherence for RBC	Staff composition of the NCP
Argentina	<ul style="list-style-type: none"> <li>Ministry of Foreign Affairs, International Trade and Worship (<i>Ministerio de Relaciones Exteriores, Comercio Internacional y Culto</i>) <ul style="list-style-type: none"> <li>National Directorate of Multilateral Economic Negotiations (<i>Dirección Nacional de Negociaciones Económicas Multilaterales</i>)<sup>1</sup></li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>The Directorate in which the NCP is located is in charge of multilateral trade, investment and economic negotiations. It also participates in bilateral negotiations, except those with other Latin American countries.<sup>2</sup></li> </ul>	<ul style="list-style-type: none"> <li>A secretariat composed of members of the National Directorate and other diplomatic officials.</li> <li>A government and stakeholder advisory body (<i>Consejo Consultivo</i>).</li> </ul>	<p>The <i>Consejo Consultivo</i> is comprised of permanent members from the:<sup>3</sup></p> <ul style="list-style-type: none"> <li>Ministry of Economy;</li> <li>Ministry of Labour, Employment and Social Security;</li> <li>Ministry of Justice and Human Rights;</li> <li>Ministry of Environment and Sustainable Development;</li> <li>Secretariat of Energy;</li> <li>Secretariat of Mines;</li> <li>Ministry of Science, Technology, and Productive Innovation; and</li> <li>Office of Anticorruption.</li> </ul> <p>The <i>Consejo Consultivo</i> additionally has non-permanent members which represent other government entities invited by the NCP; as well as stakeholder representatives from businesses, trade unions, civil society organisations, and the academia.</p>	<p>Four part-time staff members.<sup>4</sup></p> <ul style="list-style-type: none"> <li>The Head of the NCP, who is the National Director for Multilateral Economic Relations;</li> <li>Three diplomatic officials.</li> </ul>
Brazil	<ul style="list-style-type: none"> <li>Ministry of Development, Industry, Trade and Services (<i>Ministério do Desenvolvimento, Indústria, Comércio e Serviços</i>) <ul style="list-style-type: none"> <li>Undersecretariat for Foreign Investment of the Executive Secretariat of the Foreign Trade Chamber (CAMEX) (<i>Subsecretaria de Investimentos Estrangeiros da Secretaria-Executiva da Câmara de Comércio Exterior</i>)<sup>5</sup></li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>The Undersecretariat for Foreign Investment in which the NCP is located is in charge of investment promotion and facilitation in Brazil.</li> <li>CAMEX is also in charge of negotiating trade and investment agreements.</li> </ul>	<ul style="list-style-type: none"> <li>An Executive Secretariat managed by the Undersecretariat for Foreign Investment.</li> <li>An oversight body, which is the National Investment Committee of CAMEX (CONINV).</li> <li>An Inter-ministerial Working Group.</li> </ul>	<p>The Inter-ministerial Working Group is composed of members of the:<sup>6</sup></p> <ul style="list-style-type: none"> <li>Civil House of the Presidency of the Republic;</li> <li>Attorney General's Office;</li> <li>Comptroller General of the Union;</li> <li>Brazilian Central Bank;</li> <li>Ministry of Agriculture and Livestock;</li> <li>Ministry of Foreign Affairs;</li> <li>Ministry of the Environment and Climate Change;</li> <li>Ministry of Human Rights;</li> <li>Ministry of Labor and Employment;</li> <li>Ministry of Justice and Public Security;</li> </ul>	<p>Three full-time staff members.</p> <p>The NCP Coordinator, who works part-time on NCP issues.<sup>7</sup></p>

Country	Location of NCP in government	Links between the NCP location and trade and investment matters	NCP structure	Involvement of other government entities and stakeholders in the NCP structure that supports policy coherence for RBC	Staff composition of the NCP
				<ul style="list-style-type: none"> <li>Ministry of Mines and Energy;</li> <li>Ministry of Development, Industry, Trade and Services: <ul style="list-style-type: none"> <li>CAMEX</li> <li>Secretariat of Green Economy, Decarbonization and Bioindustry.</li> </ul> </li> </ul>	
Chile	<ul style="list-style-type: none"> <li><b>Ministry of Foreign Affairs (<i>Ministerio de Relaciones Exteriores</i>)</b> <ul style="list-style-type: none"> <li>Responsible Business Conduct Division of the Undersecretariat of International Economic Affairs (<i>División de Conducta Empresarial Responsable de la Subsecretaría de Relaciones Económicas Internacionales</i>)<sup>9</sup></li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>The Undersecretariat in which the NCP is located oversees the negotiation and implementation of free trade and similar agreements, as well as investment ones.<sup>9</sup></li> </ul>	<ul style="list-style-type: none"> <li>A technical secretariat with members of the Responsible Business Conduct Division.<sup>10</sup></li> <li>A government advisory body (<i>Comité Consultivo</i>).</li> <li>A civil society committee (<i>Comité Espejo</i>).</li> </ul>	<p>The <i>Comité Consultivo</i> of the NCP is composed of representatives from the:<sup>11</sup></p> <ul style="list-style-type: none"> <li>Ministry of Mines;</li> <li>Ministry of Energy;</li> <li>Ministry of Social Development and Family;</li> <li>Ministry of Environment;</li> <li>Ministry of Justice and Human Rights;</li> <li>Ministry of Economy, Development, and Tourism;</li> <li>Ministry of Labour and Social Welfare;</li> <li>Ministry of Treasury;</li> <li>Ministry of the General Secretary of the Presidency;</li> <li>Ministry of Women and Gender Equality;</li> <li>Ministry of Science, Technologies, Knowledge, and Innovation;</li> <li>Office of Agrarian Studies and Policies;</li> <li>Directorate of Work;</li> <li>Internal Revenue Services;</li> <li>Pension Superintendency;</li> <li>Commission of the Financial Market;</li> <li>Environment Superintendency; and</li> <li>Agency of Sustainability and Climate Change.</li> </ul> <p>The <i>Comité Espejo</i> gathers representatives from businesses, trade unions, civil society organisations, and the academia.</p>	<p>Four full-time staff members:<sup>12</sup></p> <ul style="list-style-type: none"> <li>The Head of the NCP, who is the Head of the Responsible Business Conduct Division;</li> <li>Three technical advisors.</li> </ul> <p>One part-time administrative assistant.<sup>13</sup></p>
Colombia	<ul style="list-style-type: none"> <li><b>Ministry of Trade, Industry, and Tourism (<i>Ministerium de Comercio, Industria y Turismo</i>)</b> <ul style="list-style-type: none"> <li>Directorate of Foreign Investment and Services (<i>Dirección de Inversión Extranjera y Servicios</i>)<sup>14</sup></li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>The Directorate in which the NCP is located is housed under the Trade Department of the Ministry which is in charge of trade agreements and similar negotiations, including investment ones.<sup>15</sup></li> </ul>	<ul style="list-style-type: none"> <li>A Secretariat.</li> <li>An advisory committee (<i>Comité Consultivo</i>).</li> </ul>	<p>The <i>Comité Consultivo</i> is comprised of representatives from businesses, trade unions, civil society organisations, and the academia.<sup>16</sup></p>	<p>One full-time member in charge of the management of the NCP.<sup>17</sup></p>
Costa Rica	<ul style="list-style-type: none"> <li><b>Ministry of Foreign Trade (<i>Ministerio de Comercio Exterior</i>)</b> <ul style="list-style-type: none"> <li>Investment and Cooperation Directorate (<i>Dirección de Inversión y Cooperación</i>)<sup>18</sup></li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>The Directorate in which the NCP is located is tasked with negotiating investment agreements.<sup>19</sup></li> </ul>	<ul style="list-style-type: none"> <li>The Head of the NCP, who is also the Director of the Investment Directorate.</li> <li>A technical secretariat with advisors from COMEX.</li> <li>Institutional Focal Points from different government entities.</li> <li>A stakeholder advisory body (<i>Consejo de partes interesadas</i>).</li> </ul>	<p>The NCP's Institutional Focal Points are within the:<sup>20</sup></p> <ul style="list-style-type: none"> <li>Ministry of Economy, Industry, and Commerce;</li> <li>Ministry of Labour and Social Security;</li> <li>Ministry of Environment and Energy; and</li> <li>Ministry of Justice and Peace.</li> </ul> <p>The <i>Consejo de partes interesadas</i> is comprised of representatives from businesses, trade unions, civil society organisations, and the academia.</p>	<p>Two part-time staff members.<sup>21</sup></p>

Country	Location of NCP in government	Links between the NCP location and trade and investment matters	NCP structure	Involvement of other government entities and stakeholders in the NCP structure that supports policy coherence for RBC	Staff composition of the NCP
				The NCP also works in coordination with the Advisory Council on Social Sustainability, which is the entity in charge of overseeing the implementation of the National Policy on Social Responsibility for 2017-2030.	
Mexico	<ul style="list-style-type: none"> <li>Ministry of Economy (<i>Secretaría de Economía</i>) <ul style="list-style-type: none"> <li>General Directorate of Foreign Investment (<i>Dirección General de Inversión Extranjera</i>)<sup>22</sup></li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>The Directorate in which the NCP is located is in charge of implementing the foreign investment policy, including granting authorisations, managing the National Registry of Foreign Investment, and preparing and publishing statistics on foreign direct investment in Mexico.<sup>23</sup></li> </ul>	<ul style="list-style-type: none"> <li>The Head of the NCP.</li> <li>A government advisory body.</li> </ul>	<p>The Advisory Body is composed of representatives from the:<sup>24</sup></p> <ul style="list-style-type: none"> <li>Ministry of Economy;</li> <li>Ministry of Welfare;</li> <li>Ministry of Energy;</li> <li>Ministry of Interior;</li> <li>Ministry of Infrastructure, Communications and Transport;</li> <li>Ministry of Labour and Social Security;</li> <li>Ministry of Foreign Affairs;</li> <li>Ministry of Tourism;</li> <li>Ministry of Finance and Public Credit; and</li> <li>Ministry of Environment and Natural Resources.</li> </ul>	<p>One part-time staff member:</p> <ul style="list-style-type: none"> <li>The Head of the NCP, who also acts as the Director of International Affairs and Public Policies in the Directorate.<sup>25</sup></li> </ul>
Peru	<ul style="list-style-type: none"> <li>Ministry of Economy and Finance (<i>Ministerio de Economía y Finanzas</i>) <ul style="list-style-type: none"> <li>Investment Promotion Agency (ProInversión) (<i>Agencia de Promoción de la Inversión Privada</i>)<sup>26</sup></li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>ProInversión, where the NCP is located, is in charge of promoting and facilitating foreign investment in the country.<sup>27</sup></li> </ul>	<ul style="list-style-type: none"> <li>An executive body, which is the Board of ProInversión.</li> <li>A technical secretariat managed by the Directorate for Investment Promotion and Facilitation of ProInversión.<sup>28</sup></li> </ul>	N/A	<p>Three part-time staff members:<sup>29</sup></p> <ul style="list-style-type: none"> <li>A coordinator;</li> <li>A legal specialist;</li> <li>An investment specialist.</li> </ul>

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