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Schweizerische Friedensstiftung
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Swiss Peace Foundation

Conflict-Sensitive Business

Review of Instruments and Guidelines

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List of Abbreviations

BCC	swisspeace Business Conflict Check
BRIC	Group of Countries including Brazil, Russia, India and China
CAO	Office of the Compliance Advisor Ombudsman (for the IFC Performance Standards)
CFGS	Conflict-Free Gold Standard
CFS	Conflict-Free Smelter Assessment Program
EICC	Electronic Industry Citizenship Coalition
EITI	Extractive Industries Transparency Initiative
EP	Equator Principles
EPFI	Equator Principles Financial Institution
GeSI	Global e-Sustainability Initiative
GP	United Nations Guiding Principles on Business and Human Rights
ICoC	International Code of Conduct for Private Security Service Providers
IFC	International Finance Corporation
IPIECA	International Petroleum Industry Environmental Conservation Association
ISO	International Organization for Standardization
ISO SR	ISO 26000 Social Responsibility
KP	Kimberley Process
KPCS	Kimberley Process Certification Scheme
NCP	National Contact Points (of the OECD Guidelines for Multinational Enterprises)
NGO	Non-Governmental Organization
OECD	Organization for Economic Co-operation and Development
PMSC	Private Military and Security Company
PRI	Principles of Responsible Investment
UN	United Nations
UNGC	United Nations Global Compact
VP	Voluntary Principles on Security and Human Rights
WGM	Working Group on Monitoring (of the KPCS)

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1. Introduction

1.1 Background

In recent years, cases where companies have caused or contributed to conflict have made international headlines with increased frequency. The question of how business ought to operate in contexts characterized by societal tensions, endemic human rights violations and weak governance became a central issue for policy makers, non-governmental organizations (NGOs) and none the least the companies themselves.

Companies have various incentives to be sensitive to their social impact when active in conflict prone regions. They generally have no interest in contributing to conflict. Political instability tends to harm their capability to operate and puts personnel at risk. Also, companies run reputational risks in case of wrongdoing, a result of increasing scrutiny by civil society organizations. In addition to these intrinsic incentives, a growing number of legally binding obligations have emerged in the last decade, pushing companies to better manage their social impacts.[1] In a similar vein, it has become more and more common that multinational companies face legal charges for alleged human rights abuses both in the country and extraterritorially.[2]

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Against this background, many businesses take substantive effort in the uphill struggle towards managing risks from conflict or fragility. Traditionally, companies address these issues through political risk analysis, environmental and social impact assessments and increasingly also supply chain assessments.[3]

During the last decade, companies have started to enrich their existing tools with concepts such as 'do no harm[4]' or 'conflict sensitivity[5]' that have emerged within the development and humanitarian community. Faced with similar challenges linked to operating responsibly in conflict prone contexts, companies increasingly try to use these concepts to better adapt their interventions on the operational context. Conflict sensitive business refers to business practices in which a company: (1) understands the conflict environment in which it operates; (2) is aware of potential positive and negative impacts the company might have on the conflict environment; and (3) implements policies to avoid causing or further exacerbating conflict and wherever possible takes steps to positively contributing to peace and stability.[6]

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[1] Examples include: sections 1502 and 1504 on conflict minerals and financial transparency in the extractive sector in the 2010 US Dodd Frank Act; and existing or envisaged regulations on mandatory reporting concerning environmental and social issues in the European Union as well as some single countries.
[2] Examples include: the civil liability claim against Shell in the Netherlands for its damaging effects on livelihood in Nigeria, ruled in 2013; the 2012 criminal complaint filed in Switzerland against Nestle for their alleged omission to protect one of their former employees who got killed in 2005; or the Alien Torts Claim Act that has been used repeatedly in recent years to sue companies for alleged complicity in human rights violations abroad.
[3] Goldwyn and Switzer 2004:16.
[4] Anderson 1999.
[5] Goldwyn and Switzer 2004:6.
[6] Fewer et al 2005.

1.2 Objectives and Structure

In recent years, a growing number of instruments and guidelines on responsible business have been developed by International Organizations, business associations, national governments and NGOs. Some of them specifically focus on working in conflict situations, in part even addressing specific countries or conflict contexts. Others intend to set standards and guidelines for responsible business independently of the operating environment.

In spite of an increasing number of instruments that can inform companies in developing conflict sensitive business practices, businesses require more and better support.[7] This report will present an overview on instruments that can guide companies in their efforts to act in conflict prone environments and assess in how far they take conflict sensitivity into account. It shall (1) serve as a first introduction and overview to these guidelines (origin, stakeholders, content), (2) assess these guidelines along specific categories (market scope, verification, grievance mechanism, conflict sensitivity, strengths and limits) and finally (3) draw some general lessons from the mapping and give recommendations how the instruments/guidelines could be advanced for conflict-affected and fragile situations.

The instruments are selected on the basis of their relevance to guide businesses in conflict prone areas. The relevance is generally the result of one or several of the following three factors: the degree to which the instrument provides for company guidance conflict prone contexts, the inclusion of multiple stakeholders that foster their implementation or the degree to which it is referenced by companies, civil society organizations and governments. The analysis is based on the study of the guidelines themselves, further information made available by the organizations that have developed or host the instruments, as well as secondary literature on their functioning and effectiveness.

This introductory chapter gives the general background to the study and outlines the approach chosen to assess the instruments. In Chapter two, a total of 20 instruments are reviewed. It is organized in three sections. The first section includes instruments that have emerged out of international organizations. The second section looks into initiatives with a strong business involvement. While some of them are exclusively business-driven, others include a state and/or civil society component. The third section includes guidelines developed by NGOs. In the final chapter, conclusions are drawn with regards to the overall development of the guidelines and their contribution to conflict sensitive business.

[7] Ruggie 2011a.

1.3 Approach

The instruments and guidelines on responsible business are presented and assessed with respect to their contribution to conflict sensitive business. The features addressed in chapter two and analyzed in the conclusion are shown in the following table[8].

Title of the instrument	
Features of Analysis	***Content***
Origin	How did the organization / instrument evolve historically?
Stakeholders	Which stakeholders were involved in developing the instrument? Which stakeholders are involved in the implementation?
Content	What is the general content of the initiative?
Market scope	**Geographically** ☑ Worldwide ☐ Conflict regions *Comment* Which are participating states and/or companies? How broadly is the initiative applied geographically? **Sectoral** ☐ No sectoral focus ☑ Sector-specific *Comment* Does the initiative have a sectoral focus?
Verification / Grievance and Remedy	**Verification** ☐ No mechanism ☑ Company reporting ☐ External assessment ☐ Other mechanism *Comment* If there is no verification mechanism: Does the guidance recommend verification? How do company reporting or external assessment requirements look like? How do other mechanisms look like? **Grievance and Remedy** ☐ No mechanism ☑ Mechanism *Comment* If there is no grievance and remedy mechanism: Does the guidance recommend grievance and remedy mechanisms? How does the grievance and remedy mechanism look like?

[8] This approach is borrowed from ILC et al. 2011.

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Reference to conflict	☐ Conflict specific ☐ No reference	☑ Direct reference
	Comment If the instrument specifically addresses conflict-affected areas, how is conflict conceptualized and defined? How do non-conflict specific initiatives make reference to conflicts? If there is no explicit reference to conflict, how does the instrument linked to conflict affected areas?	
Strengths and limits	+	What are the strengths of the instrument?
	-	What are the limits of the instrument?

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2. Assessment of Instruments

2.1 Initiatives Developed by International Organizations

2.1.1 UN Global Compact[9]	
Origin	The UN Global Compact (UNGC) is an initiative started in 1999 by the then UN Secretary General Kofi Annan. It is based on a corporate commitment to adhere to ten general principles of socially and ecologically responsible business. The UNGC needs to be understood as a platform for exchange rather than a code of conduct for responsible business. The companies that have adhered to the compact can become part in country or region-specific UN Global Compact Networks, where the implementation of the principles is discussed.
Stakeholders	The UNGC was developed by the UN. As one of its central features, it has created a multi stakeholder form for discussions including states, companies, business associations, unions, civil society and academics.
Content	The UNGC principles include provisions on human rights, labor rights, environment and anti-corruption.[10] Since its inception, the UN Global Compact has developed a wide array of guidance and recommendations on the implementation of the ten principles (see for instance 2.1.2).
Market scope	**Geographically** ☑ Worldwide ☐ Conflict regions *Comment* The UNGC is not limited geographically. As of the end of 2012, some 7000 companies from more than 145 countries have committed to the compact.[11] **Sectoral** ☑ No sectoral focus ☐ Sector-specific *Comment* The UNGC applies to all sectors of an economy.

[9] Website of the UN Global Compact: http://www.unglobalcompact.org/
[10] According to the ten principles, businesses should: 1. Support and respect the protection of internationally proclaimed human rights; 2. Avoid complicity in Human Rights abuses; 3. Uphold freedom of association and right to collective bargaining; 4. Eliminate forced and compulsory labour; 5. Abolish child labor; 6. Eliminate discrimination in employment and occupation; 7. Support a precautionary approach to environmental challenges; 8. Promote environmental responsibility; 9. Encourage development and diffusion of environmentally friendly technologies; 10. Work against corruption including extortion and bribery.
[11] See website of the UN Global Compact: http://www.unglobalcompact.org/

Verification / Grievance and Remedy	**Verification** ☐ No mechanism ☑ Company reporting ☐ External assessment ☐ Other mechanism *Comment* As part of their commitment to the UNGC, companies are requested to annually submit a "Communication on Progress" with regard to the implementation of the ten Global Compact principles every year. Participating companies that fail to file their report two years in a row are excluded from the UNGC. Whether the companies respect of the Global Compact principles is however not externally verified. **Grievance and Remedy** ☑ No mechanism ☐ Existing mechanism *Comment* The UNGC does not foresee remedy mechanisms for victims of breaches of the principles.
Reference to conflict	☐ Conflict specific ☑ Direct reference ☐ No reference ☐ *Comment* The ten principles of the UNGC as such do not make reference to conflict situations. However, the UN Global compact has published at least three prominent documents with regards to businesses in conflict. In 'Enabling Econonies of Peace', Ballentine and Virginia (2009 2nd ed.)[12] summarize the then state of the art in conflict sensitive business and identify key challenges for private and public actors. The report on 'Doing Business While Advancing Peace and Development'[13] by Getz and Oetzel (2010) is a compilation of good practices from business responses to violent conflict. Most importantly, in 2010, the UN Global compact developed its Guidance on Responsible Business in Conflict-Affected and High-Risk Areas (see 2.1.2)
Strengths and limits	[+] - The Global Compact was very influential in putting the issue of responsible business high on the international agenda and has set the stage for further initiatives within and beyond the UN. - The Global Compact Networks incorporate a unique number of companies which are spread all over the globe and are remarkably widely spread in the developing world. [-] - The effectiveness in ensuring that corporations adhere to the ten principles is limited due to a lack of monitoring and enforcement mechanisms. - There is no practice of delisting underperforming companies. This has led to the criticism that many companies are 'bluewashing' their image through the UN Global Compact logo.

[12] UN Global Compact 2009.
[13] UN Global Compact 2010a.

2.1.2 UN Global Compact and PRI Guidance on Responsible Business in Conflict-Affected and High-Risk Areas[14]

Origin	The 'Guidance on Responsible Business in Conflict-Affected and High Risk Areas' was introduced in 2010. It is a joint publication of the UN Global Compact and the UN-supported Principles for Responsible Investment (PRI[15]) Initiative. The guidelines are an effort to assist companies in adhering to the Global Compact's ten principles when operating in conflict prone regions.
Stakeholders	The document was jointly developed by the UN Global Compact and the PRI, an investor-led initiative. It was based on broad participation of public as well as private sector stakeholders from developed as well as developing economies.
Content	The document offers practical guidance of how businesses ought to act in four areas: core business, government relations, local stakeholder engagement and social strategic investment. The guidance is organized around 17 key challenges and comes up with a succinct guidance point for each of these challenges. It describes key issues to consider when active in conflict prone regions. In many parts of the guidance, the document distinguishes between businesses in general and investors.
Market scope	**Geographically** ☐ Worldwide ☑ Conflict regions *Comment* The Guidance on Responsible Business in Conflict and High-Risk Areas applies specifically in conflict regions. **Sectoral** ☑ No sectoral focus ☐ Sector-specific *Comment* The guidance applies to all sectors of an economy. The examples mentioned in the document stem mainly from the extractive sector.
Verification / Grievance and Remedy	**Verification** ☐ No mechanism ☑ Company reporting ☐ External assessment ☐ Other mechanism *Comment* There is no specific verification whether companies follow the guidance on responsible business in conflict and high risk areas. As part of their commitment to the UN Global Compact, companies are requested to report on their performance (see 2.1.1).

[14] UN Global Compact 2010b.
[15] The PRI is an investor-led coalition in partnership with the United Nations Environmental Programme Finance Initiative and the United Nations Global Compact. It was initiated by then Secretary General Kofi Annan and developed with the contributions of a multi-stakeholder group including the global investment industry, intergovernmental organisations, civil society and academia.

	Grievance and Remedy ☑ No mechanism ☐ Existing mechanism *Comment* There is no grievance or remedy mechanism linked to the guidance on responsible business in conflict affected and high risk areas.
Reference to conflict	☑ Conflict specific ☐ Direct reference ☐ No reference *Comment* The guidance is conflict-specific. It refers to the term conflict-affected and high risk areas which is defined as regions that are currently experiencing armed conflict as well as contexts with lower levels of armed violence but where political and social instability prevails, or where serious concerns about abuses of human rights and political and civil liberties are raised.[16] The guidance follows the rationale that while upholding the ten UNGC principles in conflict prone regions is particularly challenging, businesses are key partners of the UN for development, peace and security.[17]
Strengths and limits	+ - The 'Guidance on Responsible Business in Conflict Affected and High Risk Areas' provides a brief and well-structured overview on the relevant issues to tackle for conflict sensitive business practices. - Given the fact that the document has been developed by the UN Global Compact and the Principles for Responsible Investment Initiative, two organizations with wide outreach, the document is widely considered one of the main references for responsible business in conflict prone regions.
	- - The guidance on conflict-affected and high-risk areas remains rather general and lacks detailed information in particular with regards to the process and methods for implementation.

[16] UN Global Compact 2010b:7.
[17] UN Global Compact 2010b:4.

2.1.3 United Nations Guiding Principles on Business and Human Rights (GP)[18]

Origin	The GP have been developed by the UN Special Representative to the Secretary General John Ruggie in a nearly six year consultative process. The GP have been unanimously endorsed by the 47 members of the Human Rights Council in June 2011.
Stakeholders	The GP were developed within the UN. The process however was characterized by a strong inclusion of the private sector, individual states, as well as the civil society. The GP address states, both home and host states of multinational companies and companies.
Content	The GP operationalize the 2006 'Protect, Respect and Remedy Framework' which includes three pillars: (1) the state duty to protect human rights, (2) the corporate responsibility to respect human rights and (3) the need to provide effective remedy to victims of human rights violations. The Guiding Principles are structured in 31 principles which are further elaborated on in a brief comment.
Market scope	**Geographically** ☑ Worldwide ☐ Conflict regions *Comment* The GP as an overarching UN framework are supposed to inform all states and businesses. While European states such as the UK or the Netherlands have taken the lead in implementing the GP domestically, considerable efforts are being made by a number of countries in the global South (e.g. Colombia or Mongolia). **Sectoral** ☑ No sectoral focus ☐ Sector-specific *Comment* The GP are not limited to specific sectors of economy.
Verification / Grievance and Remedy	**Verification** ☑ No mechanism ☐ Company reporting ☐ External assessment ☐ Other mechanism *Comment* There are no overall mechanisms to verify state and company compliance with the GP. The official body that has been created as a follow-up of the Special Representative's work is the 'UN Working Group on the issue of Human Rights and Transnational Corporations and Other Business Enterprises'. It is mandated with the promotion of the GP's dissemination and implementation. As part of their mandate, the Working Group carries out country missions to assess and assist the implementation of the GP.

[18] Ruggie 2011b.

	Grievance and Remedy ☑ No mechanism ☐ Existing mechanism *Comment* The GP do not create an international remedy mechanism. Nevertheless, in pillar three, the GP ask for states and corporations to set up their own legal and non-legal procedures or structures to assure effective remedy.
Reference to conflict	☐ Conflict specific ☑ Direct reference ☐ No reference *Comment* Under the principles that address state duties, the GP address conflict-affected contexts specifically (principle 7). Based on the fact that the risk of gross human rights abuses is heightened in conflict-affected areas, states are asked to help businesses in a) identifying, preventing and mitigating their risks; b) provide assistance specifically with respect to confronting gender-based and sexual violence. Under c), the GP state that states should deny companies that violate human rights access to public support and services and should ensure that their policies, legislations and regulations are effective for conflict contexts. There are two other principles that refer to conflict-contexts, both under the business pillar, 12 (body of existing laws) and 23 (context). The first states in the commentary that international humanitarian law should be adhered to in situations of armed conflict. In principle 23 a longer paragraph in the commentary first states the relevance of complicity in activities with security forces, second warns businesses of the expanding web of legal liability (both corporate and individual) and third advises businesses to not only rely on internal assessments but to consult with a variety of actors active in the field or on the ground.
Strengths and limits	+ - The GP have triggered a dynamic towards reconsidering the responsibilities of states and companies with respect to human rights. They have become the major reference point in the debate on business and human rights for all stakeholders. - The fact that the GP prominently highlight conflict-affected areas as specifically sensitive is likely to foster the awareness of companies and states alike that specific precaution is needed in such contexts.
	- - The GP are voluntary and no effective verification mechanism was put in place. - The rather general guidelines require additional guidance for company implementation. This is particularly true with respect to the requirement of implementing human rights due diligence.

2.1.4 OECD Guidelines for Multinational Enterprises[19]	
Origin	The OECD Guidelines for Multinational Enterprises are a comprehensive set of guidelines developed by the Organization for Economic Co-operation and Development (OECD). They are an element of the 1976 'OECD Declaration and Decisions on International Investment and Multinational Enterprises'.[20] The guidelines have been last revised in 2011.
Stakeholders	The guidelines were developed by states within the OECD. In the revision of the guidelines in 2011, civil society and business actors were strongly involved in the process. The guidelines are part of the OECD body of guidelines that member states sign (and are open to signature to non-members states). They address the multinational enterprises operating in or from these states.
Content	The guidelines include a wide range of standards on employment and industrial relations, human rights, environment, information disclosure, competition, taxation, and science and technology. Furthermore, they point out implementation procedures for governments in the form of National Contact Points.
Market scope	**Geographically** ☑ Worldwide ☐ Conflict regions *Comment* The geographical market scope of the OECD Guidelines is quite significant. As of December 2012, 44 countries adhered to the OECD Guidelines (including the 34 OECD member countries and 12 non-OECD countries). Nevertheless A relatively low number of countries in the global South, where breaches of the Guidelines are most prevalent, have adhered to the OECD Guidelines. Nevertheless, companies from OECD member countries are required to adhere to the guidelines also in their own operations and with respect to their supply chains abroad. Hence, the guidelines cover a huge part of global economic activities. **Sectoral** ☑ No sectoral focus ☐ Sector-specific *Comment* The applicability of the OECD Guidelines is not limited to specific sectors.

[19] OECD 2011.
[20] The 'OECD Declaration and Decisions on International Investment and Multinational Enterprises' is a policy commitment by adhering governments to provide an open and transparent environment for international investments. For more information see: http://www.oecd.org/investment/investmentpolicy/oecddeclarationanddecisions.htm

Verification / Grievance and Remedy	**Verification** ☑ No mechanism ☐ Company reporting ☐ External assessment ☐ Other mechanism *Comment* There is no verification mechanism for the OECD Guidelines. Some of the National Contact Points (NCP, see: Grievance and Remedy) are mandated to verify company compliance in the cases they are dealing with. **Grievance and Remedy** ☐ No mechanism ☑ Existing mechanism *Comment* The adhering states have set up National Contact Points which function as complaints mechanisms for the OECD Guidelines. The NCPs handle enquiries from organizations or individuals on alleged corporate violations of the OECD Guidelines. The NCP's differ significantly with regards to their mandate, the resources allocated and the follow-up procedures. In most cases, their function is limited to offering mediation between the parties to the dispute. With the 2011 revision of the guidelines the NCPs need to publish the cases they are dealing with.
Reference to conflict	☐ Conflict specific ☑ Direct reference ☐ No reference ☐ *Comment* The OECD Guidelines are general principles for companies and do not specify the context in which the company works. The only reference to specific requirements in conflict situations is to be found on paragraph 40 in the chapter on human rights. The OECD Guidelines state that in situations of armed conflict, enterprises should respect the standards of international humanitarian law. With respect to human rights, the OECD Guidelines draw upon the UN Guiding Principles on Business and Human Rights and consider themselves in line with them for the implementation.[21] The OECD Guidelines consider conflict contexts as situations in which companies need to take enhanced precautions. In order to assist companies in meeting these challenges the OECD has developed specific guidance for conflict affected and high risk areas (see 2.1.4).
Strengths and limits	⊞ - The reach of the OECD Guidelines is considerable. An overwhelming majority part of the world's largest corporations are based in adhering countries. - The OECD Guidelines constitute the most comprehensive set of specific guidance provided by states to companies active in or from their territory. - The guidelines are considerably detailed. - Many states consider them as integral to how they expect companies to behave. Therefore, when trying to translate international initiatives such as the UN Guiding Principles on Business and Human Rights or the ILO Conventions on Labor Rights into practice,

[21] OECD 2011:32.

		states make use of to the OECD Guidelines. - The NCPs constitute potentially relevant – although currently mostly rather ineffective - remedy mechanisms with extraterritorial reach.[22]
	-	- The Guidelines are not legally binding. Even if a company states it respects the norms, there are little chances of redress if it does not match up. - The NCPs currently largely ineffective and do not compensate for the lack of the Guidelines' legal enforceability. The NCPs, while conceptually promising, oftentimes have only a weak mandate and are significantly under-resourced.

[22] Bardwell 2012.

2.1.5 OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas[23]

Origin	The OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (hereafter OECD Guidance) has been presented in 2010 and is a government-backed multi-stakeholder initiative that aims to help companies respect human rights and avoid contributing to conflict through their mineral sourcing practices.
Stakeholders	The OECD Guidance has been developed under the auspices of the OECD with strong support of the International Conference on the Great Lakes Region.[24]
Content	The OECD Guidance outlines an overarching due diligence framework (annex I), specifies a model due diligence process (annex II) and suggests measures for risk mitigation and indicators for tracking improvement (annex III). Finally, two supplements on tin-tantalum-tangusten and gold deal with the specific challenges associated to the supply chain structure of these minerals. The Guidance builds on and is consistent with the principles and standards contained in the OECD Guidelines for Multinational Enterprises (see 2.1.4). It furthermore in many ways operationalizes the 2006 'OECD Risk Awareness Tool for Multinational Enterprises in Weak Governance Zones'.[25]
Market scope	**Geographically** ☐ Worldwide ☑ Conflict regions *Comment* The OECD Guidance has been developed specifically for conflict regions. **Sectoral** ☐ No sectoral focus ☑ Sector-specific *Comment* The OECD Guidance is limited to companies which supply or source minerals.
Verification / Grievance and Remedy	**Verification** ☑ No mechanism ☐ Company reporting ☐ External assessment ☐ Other mechanism *Comment* The OECD Guidance is not backed by a verification mechanism.

[23] OECD 2010.
[24] The members of the International Conference on the Great Lakes Region are Angola, Burundi, Central African Republic, Republic of Congo, Democratic Republic of Congo, Kenya, Rwanda, Sudan, Tanzania, Uganda and Zambia.
[25] OECD 2006.

	Grievance and Remedy ☐ No mechanism ☑ Existing mechanism *Comment* The OECD Guidance is a complement to the OECD Guidelines on Multinational Enterprises. As such, individuals who consider themselves victims of breaches of these Guidelines due to lacking or inappropriate supply chain due diligence can file complaints at the OECD National Contact Points.
Reference to conflict	☑ Conflict specific ☐ Direct reference ☐ No reference *Comment* The OECD Guidance is created specifically for conflict-affected and high-risk areas. Its definition of conflict-affected and high-risk areas is very broad. Conflict-affected and high-risk areas are identified by the presence of armed conflict, widespread violence or other risks of harm to people. High-risk areas may include areas of political instability or repression, institutional weakness, insecurity, collapse of civil infrastructure and widespread violence.[26]
Strengths and limits	+ - The Guidance significantly enhances the relevance of the OECD framework for responsible business in conflict affected areas. - The Guidance is very process oriented. In combination with the OECD Guidelines on Multinational Enterprises, it provides a very useful and detailed assistance in developing conflict sensitive policies. - The general process outlined is not necessarily limited to the mineral sector and can provide lessons for other sectors as well.
	- - While defining a general process, the Guidance is not as specific as other conflict sensitivity tools (e.g. the Guidance on Conflict Sensitive Business Practice of International Alert; see 2.3.1) on conflict analysis and company impact assessments. - Company compliance with the guidelines remains voluntary and the NCP as the OECD's remedy mechanisms are rather inefficient.

[26] OECD 2010:13.

2.1.6 ISO 26000 Social Responsibility[27]	
Origin	The ISO 26000 Social Responsibility (ISO SR) is a voluntary standard for social responsibility developed by ISO, the International Organization for Standardization. The standard was launched in November 2010 and has been developed in a five year negotiation and consultation process.
Stakeholders	The standard was developed in a five year negotiation process. Representatives from government, NGOs, industry, consumer groups and labor organizations were involved in its development.
Content	The standard includes guidance on the definition of the concept of social responsibility, identifies core subjects and issues of social responsibility (human rights, labor practices, environment, fair operating practices, consumer issues, and community involvement and development) and describes ways in which companies can include these issues in their organizational structure.
Market scope	**Geographically** ☑ worldwide ☐ Conflict regions *Comment* The ISO SR is designed to be globally applicable. The members of the ISO as an organization are the National Standards Bodies from 162 countries. **Sectoral** ☑ No sectoral focus ☐ Sector-specific *Comment* According to Clause 1 of the ISO SR, its aim is to provide guidance on social responsibility to all types of organizations, including governments and NGOs. The ISO SR hence is supposed to inform all sectors of economy.
Verification / Grievance and Remedy	**Verification** ☑ No mechanism ☐ Company reporting ☐ External assessment ☐ Other mechanism *Comment* The ISO SR is a general guidance for companies on how to understand and implement CSR. As opposed to other ISO standards, it is not certifiable and there is no mechanism verifying company compliance with the standard. Nevertheless, some companies have been certified against ISO SR by independent certifiers. Also, a growing number of countries (including Brazil Mexico, Portugal, Spain, the Netherlands and Denmark) have developed national certifiable management system standards on social responsibility that are informed by the ISO SR.[28]

[27] The ISO 26000 Social Responsibility standard is with costs. For a description of the Standard see http://www.iso.org/iso/socialresponsibility.pdf.
[28] An example is the CWK-SCS Division of the Coop Genossenschaft which was certified against ISP 26000 by Swiss TS. By the end of 2011, 13 cases of ISO 26000 'certification' have been documented. See: Henriques 2012:19.

	Grievance and Remedy ☑ No mechanism ☐ Existing mechanism *Comment* There is no grievance or remedy mechanism for breaches of ISO SR. However, the standards themselves ask companies to address potential grievances through effective systems.
Reference to conflict	☐ Conflict specific ☑ Direct reference ☐ No reference *Comment* The ISO SR applies independently from the context in which an organization operates. It however repeatedly makes reference to the difficulties of operating in conflict prone regions. This is most prominently the case in section 6.3.4 on human rights risk situations. In this section, ISO 26000 identifies a checklist of questions that allow companies to assess the context of its operations. Some of these questions directly refer to the specificities of conflict prone regions.[29]
Strengths and limits	+ - The ISO SR outlines in considerable detail how an organization is required to act in order to gain a social license to operate. - It has become standard for companies to refer to the ISO SR in their CSR policy documents. The initiative is still rather young, and it is not possible at this stage to assess its impact on actual corporate behavior. Nevertheless, there is considerable anecdotal evidence on the use of ISO SR by organizations and it is argued that the standard's impact on the sustainable development debate and the global acceptance of human rights and labor issues as part of sustainability is already apparent.[30] - The ISO SR can further have an impact by serving as practical guidance to companies in implementing other standards on human or labor rights or corruption. - - The Standard is in essence a set of voluntary guidance for organizations without effective verification or remedy mechanisms. - While highlighting many of the issues relevant for conflict sensitivity, the processes described in the Standard do not account for the specificities of conflict situations.

[29] For instance: Is the company operating in an area with difficult conditions? (e.g., extreme political instability, absence of civil rights, poverty, drought, health challenges, natural disasters); Do the activities directly or indirectly affect or involve vulnerable groups, including indigenous peoples or children?; Are extensive security measures needed?; see: UN Global Compact 2010:5.
[30] Henriques 2012:30.

2.1.7 IFC Performance Standards on Environmental and Social Sustainability[31]	
Origin	The Performance Standards on Environmental and Social Stability of the International Finance Corporation (IFC) were introduced in 2006 and adapted in 2012. The IFC is the private sector arm of the World Bank and offers investment advisory, and asset management services to encourage private sector development in developing countries.
Stakeholder	The IFC is a global organization with 184 member countries. The standards address IFC clients that receive a loan from the organization.
Content	The guidelines include eight different performance standards on procedural issues such as the assessment and management of environmental and social risks and impacts (Standard 1) as well as on specific issues of concern including labor and working conditions (Standard 2), resource efficiency and pollution prevention (Standard 3), community health, safety and security (Standard 4), land acquisition and involuntary resettlement (Standard 5), biodiversity conservation and sustainable management of living natural resources (Standard 6), indigenous peoples (Standard 7), and cultural heritage (Standard 8). Moreover, the IFC has developed guidance notes as companion documents providing guidance to adhere to the Standards.[32]
Market scope	**Geographically** ☑ worldwide ☐ Conflict regions *Comment* The IFC Performance Standards are applicable to all companies benefiting from IFC loans. In 2012, the IFC invested a total of USD 20.4 billion in 103 developing countries. **Sectoral** ☑ No sectoral focus ☐ Sector-specific *Comment* The IFC Performance Standards is an instrument of the financial sector. Nevertheless, they apply to all IFC investments, regardless of the sector concerned.
Verification / Grievance and Remedy	**Verification** ☐ No mechanism ☐ Company reporting ☐ External assessment ☑ Other mechanism *Comment* The compliance with the IFC Performance Standards is monitored by the IFC. The process includes a due diligence process prior to the investment decision which results in an Environmental and Social Action Plan. The Action Plan is part of the investment agreement. The company submits regular reports on environmental and social issues and IFC site visits are carried out to monitor compliance.

[31] IFC 2012.
[32] See Website IFC: http://www1.ifc.org/wps/wcm/connect/e280ef804a0256609709ffd1a5d13d27/GN_English_2012_Full-Document.pdf?MOD=AJPERES.

Moreover, there is a system in place that monitors potential failures of the IFC in verifying companies' environmental and social commitments. This function is part of the mandate of the Office of the Compliance Advisor Ombudsman (CAO).

Grievance and Remedy

☐ No mechanism ☑ Existing mechanism

Comment
The IFC Performance Standards require effective grievance mechanisms that facilitate early indication and prompt remediation of project-related grievances.[33] In addition, the Office of the Compliance Advisor Ombudsman (CAO) serves as an independent remedy mechanism.[34] Victims of alleged negative effects of IFC supported projects (or organizations representing them) can file a complaint at the CAO. The Ombudsman responds to complaints through direct engagement with stakeholders, trying to resolve grievances and settle disputes. If a settlement cannot be achieved, the CAO conducts an audit of the IFC performance in monitoring company compliance with environmental and social standards. In cases where the IFC is found to be falling short of its task, CAO Compliance keeps the audit open and monitors the situation until actions taken by the IFC assure the CAO that the project is back into compliance.

Reference to conflict

☐ Conflict specific ☑ Direct reference
☐ No reference

Comment
The IFC Performance Standards do not set specific standards for conflict-affected areas. At the same time, under Performance Standard 4 (Health, Safety and Security), there is a specific reference to conflict and post-conflict areas, stating that in these areas, "the the level of risks and impacts described (…) may be greater. The risks that a project could exacerbate an already sensitive local situation and stress scarce local resources should not be overlooked as it may lead to further conflict." Another reference to conflict is mentioned under Performance Standard 7, where a clearer definition of the term 'Indigenous People' is introduced, saying that the standard may also apply to communities that have lost territories amongst others because of conflict. At the same time, the IFC states that the standards should be applied irrespective of the context.

Strengths and limits

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- The IFC Performance Standards are particularly relevant for conflict affected areas since they address investments in developing countries, where a high share of the world's violent conflicts take place.
- The Standards tackle issues that are most sensitive in terms of conflict such as the rights of indigenous people, the management of natural resources or environmental pollution.
- The rather effective and well resourced verification and grievance mechanism is an important tool to as-

[33] IFC 2012:12.
[34] For more information, see Website of the CAO Ombudsman: http://www.cao-ombudsman.org/

	sure company compliance with the Standard. - Other guidelines such as the Equator Principles explicitly take up the IFC Performance Standards.
$\boxed{-}$	- The Performance Standards do not include the specifics of conflict affected contexts. - The verification and remedy mechanisms are limited to clients of the IFC.

2.2 Initiatives with Strong Business Involvement

2.2.1 Voluntary Principles on Security and Human Rights[35]	
Origin	The Voluntary Principles on Security and Human Rights (VP) were established by US and UK governments, NGOs and major extractive companies in 2000.
Stakeholder	The VP take the form of a restricted multi-stakeholder dialogue, currently including seven governments, 20 companies and 12 NGOs (as well as five additional organizations with observer status). In November 2012, the Voluntary Principles Association has been founded, a non-profit organization based in the Netherlands with the mandate to address administrative needs to facilitate the VP dialogue process.
Content	The VP provide guidance to the extractive industry on how to maintain safety and security while respecting human rights and fundamental freedoms. Companies participating in the VP essentially state their support to a number of principles in the three categories of (1) risk assessment, (2) relations with the public security providers (police, military) and (3) private security providers.
Market scope	**Geographically** ☑ worldwide ☐ Conflict regions *Comment* The VP have a worldwide scope since the standard is globally applicable and any country or company can join them. **Sectoral** ☐ No sectoral focus ☑ Sector-specific *Comment* The participation in the VP Initiative is limited to companies in the extractive sector.[36] Although the official participation is sectorally restricted, the principles as such are broad enough to serve as guidance for companies from other sectors relying on the cooperation with public or private security actors to secure their operations.
Verification / Grievance and Remedy	**Verification** ☐ No mechanism ☑ Company reporting ☐ External assessment ☐ Other mechanism *Comment* The VP are – as their name says – voluntary and not binding. Nevertheless, the participating companies are obliged to develop an action plan on the implementation of the VP, to report annually on their activities with regards to the action plan and to respond to questions on their performance of other participants such as from participating governments or NGOs. These dialogues and annual plenary meetings of the VP are subject to strict confidentiality constraint.

[35] Voluntary Principles 2000.
[36] Voluntary Principles 2012:1.

Grievance and Remedy

☑ No mechanism ☐ Existing mechanism

Comment
The VP do not foresee a remedy mechanism for victims of adverse human rights effects resulting from the cooperation of companies with private or public security providers. The principles themselves however include provisions on how to respond to alleged human rights abuses. In the VP, the companies are supportive of the principle that companies should record allegations of abuses, urge investigations of the matter, press for the proper resolution of cases and take steps to prevent any recurrence.

Reference to conflict

☐ Conflict specific ☐ Direct reference
☑ No reference

Comment
Even if the VP are not making explicit reference to conflict-affected areas, they are directly relevant to these situations. Due to a number of reasons, countries with important natural resource extraction sites tend also to have weak governance structures and violent conflict. It is therefore precisely in such areas where the problems the VP try to address are occurring in the most virulent ways. Furthermore, the VP mainly address security issues, which are mainly problematic in post-conflict or conflict situations.

Strengths and limits

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- The VP address one of the main causes of corporate involvement in human rights violations.
- There is an important degree of ownership from the part of the companies.
- Due to the participation of NGOs in the process, companies with good will can benefit from their experience when developing policies on security and human rights.
- The participation of states – and in particular host states – is pivotal since companies in many situations are collaborating with public security forces.

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- As a voluntary initiative, basically being a rather secretive platform for dialogue without efficient verification or remedy procedures, the VP have substantive deficits in terms of ensuring their implementation.
- Countries with an increasingly important footprint in the extractive sector such as China, India, Brazil or South Africa are not part of the Initiative. Second, the same counts for the participant companies. All of the currently 20 companies being part of the VP Initiative stem from the seven participating countries.
- While the relevance of the issue tackled is important for all companies active in conflict affected areas, the VP limit themselves to the extractive and energy sector.

2.2.2 Extractive Industry Transparency Initiative (EITI)[37]	
Origin	The Extractive Industry Transparency Initiative (EITI) is a global standard that promotes revenue transparency. It has been initiated during the 2002 World Summit on Sustainable Development in Johannesburg and was endorsed during the same year by the G8 Africa Action Plan.
Stakeholder	The EITI is a government-led multi-stakeholder initiative. Its process however calls for the active involvement of extractive industry companies and other partners from wider society. The EITI process is overseen by the international EITI board, a multi-stakeholder group of governments, companies and civil society organizations and implemented nationally through multi-stakeholder working processes.
Content	The EITI is based on the disclosure of companies of what they pay and of governments of what they receive. This information on tax and royalty payments is verified and reconciled by an independent actor and published in an EITI report. The overall objective is to establish transparency of revenues and thereby contribute to good governance, economic development and poverty reduction in the participating countries.
Market scope	**Geographically** ☑ worldwide ☐ Conflict regions *Comment* The scope of the EITI is global. As of November 2012, 37 resource-rich countries are part of the EITI process. The US are not yet participant in the EITI. However, they have announced that they intend to implement the EITI. The BRIC countries which have an increasingly important footprint in the extractive sector have not joined the initiative so far. **Sectoral** ☐ No sectoral focus ☑ Sector-specific *Comment* The EITI is limited to the oil & gas and mining industries.
Verification / Grievance and Remedy	**Verification** ☐ No mechanism ☐ Company reporting ☑ External assessment ☐ Other mechanism *Comment* The process is overseen by a country-level multi-stakeholder group which in the first place endorses a work plan, containing measurable targets and a timetable for implementation and incorporating an assessment of capacity constraints. An external organization then is appointed to reconcile the information disclosed by companies and governments.

[37] See EITI website: http://eiti.org/

	Grievance and Remedy ☑ No mechanism ☐ Existing mechanism *Comment* The EITI does not create a remedy mechanism for victims of adverse effects of oil or mining companies.
Reference to conflict	☐ Conflict specific ☐ Direct reference ☑ No reference *Comment* The EITI does not specifically refer to conflict-affected areas. It is supposed to apply in all countries with oil exploitation and mining irrespective of the political conditions. Still, the EITI published case studies where their standard was applied in conflict-affected countries or also they included conflict issues in event's series. Furthermore, EITI mentions conflict as one of the consequences of weak governance.
Strengths and limits	+ - The EITI has become a widely accepted initiative that has continued to attract an increasing number of participants from the public and private sector. - A 2011 evaluation has further concluded that the initiative was capable of improving transparency in a relatively short period of time. Moreover, its overall structure and organization is considered as adequate.[38] - The verification system including company and state reporting and an external assessment of the matching of the information provided is quite far-reaching.
	- - The scope of the EITI is limited to enhancing transparency of payment. It has so far not been successful in accountability on how revenues are spent by governments.[39] - The necessary political, legal and institutional reform processes have not been put in place by many participant countries.

[38] Scanteam 2011.
[39] As of early 2013, the EITI is in a review process. The results will be presented at the EITI Global Conference in May 2013 and possibly broaden the EITI's scope.

2.2.3 Kimberley Process Certification Scheme[40]	
Origin	The Kimberley Process Certification Scheme (KPCS) is an international governmental certification scheme that sets out the requirements for controlling rough diamonds production and trade. It entered into force in 2003. The KPCS aims at inhibiting trade in so-called conflict diamonds through a system of certificates determining the provenance of diamonds. The process was a result of the growing evidence in the 1990s that diamond trade is fuelling wars in countries like Liberia, Sierra Leone or Angola.
Stakeholder	As of December 2012, the process includes 54 participants (representing 80 countries with the European Union counting as one participant). The diamond industry, represented by the World Diamond Council, as well as civil society organizations have shaped the development of the Kimberley Process since its beginning and contribute to its implementation.
Content	The scheme imposes extensive requirements on its members to enable them to certify shipments of rough diamonds as "conflict-free" and thereby prevent conflict diamonds from entering the legitimate trade. The minimum requirements defined by the KPCS include national legislation and institutions, controls of export, import and internal trade, and commitments on transparency and data exchange.
Market scope	**Geographically** ☐ worldwide ☑ Conflict regions *Comment* The Kimberley Process addresses diamonds from conflict regions. It is open to any country that is willing and capable to implement its requirements. The currently 80 participating countries account for approximately 99.8 percent of total rough diamond production. The fact that members can only trade rough diamonds with other participant countries creates a strong incentive for governments to join the initiative. **Sectoral** ☐ No sectoral focus ☑ Sector-specific *Comment* The scope of the KPCS is limited to the trade in rough diamonds.
Verification / Grievance and Remedy	**Verification** ☐ No mechanism ☐ Company reporting ☐ External assessment ☑ Other mechanism *Comment* The verification of country compliance with the scheme's requirements is carried out by the Working Group on Monitoring (WGM). The WGM overviews the peer-review mechanisms, organizes review visits in participating countries and assesses the participant's annual reports. The KPCS has no permanent secretariat or staff to overlook the process or conduct verifications itself. At the same time, the overall KPCS is subject to periodic review. In November 2011 the Committee on KPCS review was mandated to reconsider core objectives, definitions and the func-

[40] KPCS 2003.

	tioning of the process during 2012 and 2013. **Grievance and Remedy** ☑ No mechanism ☐ Existing mechanism *Comment* The KPCS does not include any remedy mechanism for victims of adverse effects of diamond trade.
Reference to conflict	☑ Conflict specific ☐ Direct reference ☐ No reference *Comment* The KPCS is specifically designed to address diamond trade from conflict areas. It defines conflict diamonds as rough diamonds used by rebel movements or their allies to finance conflict aimed at undermining legitimate governments.[41]
Strengths and limits	+ - The KPCS covers nearly the entirety of the trade of rough diamonds and is specifically designed to address the negative effects of diamond trade in conflict-affected areas. - The relatively tough criteria that participants can only trade with other participants has facilitated a dynamic in which, once the initiative had a certain weight, all players in the market had a strong incentive to join the initiative. - There is some evidence that the KPCS has effectively had a positive impact on the availability of conflict diamonds on the world market.[42] - The KPCS plenary session of November 2012 in Washington DC has led to the creation of a so called 'administrative support mechanism' which has the potential to foster the effectiveness of the instrument.[43] - - By focusing on the conflict dimension of diamond trade, other negative effects that lie under the threshold of open war fail to be tackled by the scheme. Many NGOs therefore call for the inclusion of human rights standards into the KP requirements.[44] - The application of a clear division between rebels and governments has been criticized widely since governments as well as rebels were involved in human rights violations related to diamond trade. - The KP includes a component of industry self-

[41] KPCS 2003:0.
[42] Granta, 2012,
[43] With the administrative support mechanism, the KPCS will for the first time have permanent staff. The mechanism will be run by the World Diamond Council, in cooperation with India's Gem & Jewellery Export Promotion Council, the Israel Diamond Institute, Antwerp World Diamond Centre, and the government of Ghana.
[44] See for instance website Global Witness: http://www.globalwitness.org/campaigns/conflict/conflict-diamonds/kimberley-process. The KPCS is currently discussing a new definition of 'conflict diamonds' which would include 'diamonds produced under violent conditions'. The participants of the November 2012 plenary could however not agree on a new formula and the process is ongoing.

regulations through warranties which is only weakly enforced.

- The consensual decision-making among participants tends to block effective measures to deal with non-compliant participants.[45]
- A further loophole in the KP is the fact that it fails to include the cutting and polishing industry in its basic provisions. This means that illicit diamonds that by-pass the early stages of the process can be laundered through willing companies later on.[46]
- So far, the verification of country compliance remains ineffective due to the lack of resources put into the verification process.

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[45] The argument that the governments of Zimbabwe, Côte d'Ivoire and Venezuela have dishonored the KPCS without significant penalties figured prominently among the explanation of Global Witness to leave the process in December 2011. See: http://www.globalwitness.org/library/why-we-are-leaving-kimberley-process-message-global-witness-founding-director-charmian-gooch

[46] Smillie 2012.

2.2.4 The Equator Principles[47]	
Origin	Launched in 2003, the Equator Principles (EP) are a credit risk management framework for determining, assessing and managing environmental and social risk in project finance. The participating institutions commit themselves to implement ten basic principles for all projects they finance with a volume of USD 10'000 or higher. The EP are based on the Performance Standards of the International Finance Corporation (IFC) and the Guidelines of the World Bank on environment, health and safety. An updated version of the Equator Principles will be launched in the first quarter of 2013.
Stakeholder	The Equator Principles is a business initiative from the financial sector and does not include institutionalized state or civil society components. In July 2010, the Equator Principles Association was founded by participating companies with the mandate to manage, administer and further develop the EP. In the process for the update of the principles, multiple stakeholders are consulted.
Content	The ten EP essentially provide a minimum standard for due diligence in decision making on investing in major infrastructure or industrial projects. They describe a project cycle from the assessment to the reporting stage.[48]
Market scope	**Geographically** ☑ worldwide ☐ Conflict regions *Comment* The scope of the EP is not geographically limited. As of December 2012, 77 financial institutions in 32 countries have adopted the EP. These institutions cover over 70 percent of international project finance debt in emerging markets.[49] **Sectoral** ☐ No sectoral focus ☑ Sector-specific *Comment* The EP are an instrument of the financial sector. Given the investments of its participants in all industry sectors, the EP have repercussions that include for instance construction, mining, energy or the chemical industry.[50]
Verification / Grievance and Remedy	**Verification** ☐ No mechanism ☑ Company reporting ☐ External assessment ☐ Other mechanism *Comment* The Equator Principle Financial Institutions (EPFI) are required to report on their implementation processes and experience. According to Principle 10 and Footnote 6, the reporting should at a minimum include the number of transactions screened by each

[47] Equator Principles 2006.
[48] The ten principles are: 1. Review and Categorization; 2. Social and Environmental Assessment; 3. Applicable Social and Environmental Standards; 4. Action Plan and Management System; 5. Consultation and Discourse; 6. Grievance Mechanism; 7. Independent Review; 8. Covenants; 9. Independent Monitoring and Reporting ; and 10. EPFI reporting.
[49] See website Equator Principles: http://www.equator-principles.com/index.php/38-about/about/195.
[50] The Equator Principles mention as examples the following kinds of large, complex and expensive installations: power plants, chemical processing plants, mines, transportation infrastructure, environment, and telecommunications infrastructure. Equator Principles 2006:2.

EPFI, including the categorization accorded to transactions and information regarding implementation.[51] The EP Association prepared a Guidance Note on Implementation Reporting[52] which serves as a voluntary reference. The reports of the EPFI are publicly available and differ significantly in terms of depth.[53]

Grievance and Remedy

☑ No mechanism ☐ Existing mechanism

Comment
The EP do not include any remedy mechanism for victims of adverse effects by companies. They however in Principle 6 ask financial institutions to ensure that the borrowers implementing projects with a high or medium risk profile do include grievance mechanisms as part of their management system.

Reference to conflict	☐ Conflict specific ☑ Direct reference ☐ No reference *Comment* The EP do not make explicit reference to conflict-affected areas. Nevertheless, Principles ask the EPFI to categorize their projects with respect to their potential negative impacts (categories A, B, C). It can be expected, that projects in conflict affected areas fall under categories A (significant potential adverse impact) or B (limited potential adverse impact). In these cases, the EPFI are required to demand its borrowers to implement a due diligence process.
Strengths and limits	⊞ - Financial institutions committed to upholding the principles of the EP have the necessary leverage to force companies to implement adequate due diligence processes in terms of social and environmental risks. - Due to the fact that nearly any large project needs support from financial institutions and the sheer number of projects financed in the different sectors, the reach of the EP, if thoroughly implemented could be significant. - The EP members are required to adhere to the detailed IFC Standards (see 2.1.7) which provide guidance for a wide variety of issues relevant for conflict sensitive business. ⊟ - The verification of company compliance with the EP remains week. - The EP remain a voluntary instrument that lacks systematic engagement of other stakeholder groups such as states or NGOs

[51] Equator Principles 2006:6.
[52] Equator Principles 2012.
[53] Reports available at Equator Principles website: http://www.equator-principles.com/index.php/members-reporting/members-and-reporting

2.2.5 IPIECA Guide to Operate in Areas of Conflict for the Oil and Gas Industry[54]	
Origin	The 2008 IPIECA Guide to Operate in Areas of Conflict (IPIECA Guide) is a sector-driven guide by the International Petroleum Industry Environmental Conservation Association (IPIECA).
Stakeholder	The IPIECA guide is a global industry association. It was developed by a task force of members of the IPIECA Social Responsibility working group. Inputs were given by representatives of consultancy companies specialized on political risks.
Content	The first part of the guide addresses risk management, adding a conflict analysis and conflict impact assessment to traditional approaches to risk analysis. The second part sets out guidance on managing conflicts while upholding a company's ethics and reputation and respecting laws and international standards
Market scope	**Geographically** ☐ worldwide ☑ Conflict regions *Comment* The IPIECA Guide was developed to address operations in conflict affected areas. **Sectoral** ☐ No sectoral focus ☑ Sector-specific *Comment* The IPIECA Guide is a product from the oil and gas industry and addresses its specific needs.
Verification / Grievance and Remedy	**Verification** ☑ No mechanism ☐ Company reporting ☐ External assessment ☐ Other mechanism *Comment* The IPIECA does not provide for verification of the implementation. Nor does it require companies to report on the measures taken. **Grievance and Remedy** ☑ No mechanism ☐ Existing mechanism *Comment* The instrument does not include grievance or remedy mechanisms.
Reference to conflict	☑ Conflict specific ☐ Direct reference ☐ No reference *Comment* The IPIECA Guide is specifically addressing risks in conflict affected areas. It distinguishes two kinds of conflicts: conflicts related to the wider socio-political context and conflicts that are directly related to the industry's presence.[55] At the same time,

[54] IPIECA 2008.
[55] IPIECA 2008, Guide to Operate in Areas of Conflict for the Oil and Gaz Industry, p.5, available at: http://www.ipieca.org/sites/default/files/publications/conflict_guide_0.pdf

	they state in the guide while political and social instability have long been a common feature of many countries where large oil and gas resources exist, the problem has been getting worse because of the competition for reserves also in more conflict-prone regions of the world. The guidance is furthermore focused on conflicts that have the potential for violence or are violent in nature (the guidance gives industry specific examples of these) non-violent conflicts are also mentioned as important for monitoring.	
Strengths and limits	+	- The IPIECA Guide is a practical tool that adds a conflict lens to existing risk assessment and management tools of companies in the oil and gas sector. - The risk assessment and management processes outlined can also inform companies of other sectors that are active in conflict affected areas.
	-	- The IPIECA Guide lacks detail and the implementation of the guide needs substantial further guidance on specific issues of relevance. - The guide (as opposed to for instance the Gold Standard for the gold industry) does not include verification mechanisms.

2.3.6 International Code of Conduct for Private Security Service Providers[56]	
Origin	The International Code of Conduct for Private Security Service Providers is a standard that sets principles for Private Military and Security Companies (PMSCs) based on international humanitarian and human rights law. It was launched in November 2010 and is based on the Montreux Document on Private Military and Security Companies which restated existing legal obligations of states related to operations of PMSCs. In February 2013, an agreement has been reached on a Charter for an Oversight Mechanism of the ICoC.
Stakeholder	The ICoC is a multi-stakeholder initiative including three stakeholder groups: companies, government, and civil society. It was initiated by the Swiss government and jointly developed with industry representatives, other governments (notably the US, UK and Canada), and civil society organizations. The same set of stakeholders was also involved in the negotiations on the ICoC oversight mechanism.
Content	The ICoC includes principles for the conduct of PMSC personnel (section F) and regarding company management and governance (section G). Companies can sign up to the code and commit to live up to its provisions.
Market scope	**Geographically** ☑ worldwide ☐ Conflict regions *Comment* The scope of the ICoC is global and it is not limited to conflict regions. **Sectoral** ☐ No sectoral focus ☑ Sector-specific *Comment* The ICoC is an initiative for and partly of the private security sector.
Verification / Grievance and Remedy	**Verification** ☐ No mechanism ☐ Company reporting ☑ External assessment ☐ Other mechanism *Comment* The verification of company compliance with the ICoC has been very week so far. This is supposed to change with the ICoC Oversight Mechanism. The body will be responsible for certifying that a company's systems and policies meet the Code's principles and the standards derived from the Code and that a company is undergoing monitoring, auditing, and verification, including in the field.[57] The concrete processes still need to be defined by the association's board (article 12).[58] Certification shall remain valid for a period of three years. The Oversight Mechanism is composed of representatives from government, companies and civil society.

[56] ICoC 2010.
[57] ICoC 2013:6.
[58] ICoC 2013:7.

	Grievance and Remedy ☐ No mechanism ☑ Existing mechanism *Comment* The ICoC asks the companies to provide for effective grievance procedures to address claims of alleged breaches of the code's principles.[59] Moreover, the Charter of the Oversight Mechanism outlines a complaints process maintained by the mechanism (article 13).[60] The secretariat can receive complaints of individuals or their representatives of which it has to inform the company in question. If the company fails to provide for accessible, fair and effective remedy and does not take reasonable corrective action within or cooperate in good faith the board can take action, which may include suspension or termination of membership.
Reference to conflict	☐ Conflict specific ☑ Direct reference ☐ No reference *Comment* The ICoC is applicable to actions of PMSCs in so called complex environments. It defines complex environments as any areas experiencing or recovering from unrest or instability, whether due to natural disasters or armed conflicts, where the rule of law has been substantially undermined, and in which the capacity of the state authority to handle the situation is diminished, limited, or non-existent.[61]
Strengths and limits	+ - The ICoC is actively driven by all three stakeholder groups: governments, companies and civil society. This gives it a high degree of credibility. - The design of the Oversight Mechanism is very far-reaching in terms of verification and remedy. If implemented properly, it should become a very effective instrument to ensure company compliance. - A large number of companies have signed up to the ICoC in a relatively short period. - Many governments that work with PMSCs have made further contracts conditional on company commitment to the ICoC. - - The Oversight Mechanism is still to be established. It remains open how well it will be sourced, how efficiently it will operate, and how its secretariat will cope with the potentially high number of complaints.

[59] ICoC 2010:14/15.
[60] ICoC 2013:8/9.
[61] ICoC 2010:5

2.2.7 Conflict-Free Smelter Assessment Program[62]	
Origin	The Conflict-Free Smelter Assessment Program (CFS) is a voluntary program in which third party evaluators determine if smelters or refiners can demonstrate that the materials they processed originated from conflict-free sources. The first assessments began in the fourth quarter of 2010.
Stakeholder	The program is developed by the Electronic Industry Citizenship Coalition (EICC) and the Global e-Sustainability Initiative (GeSI).[63] In addition to business representatives, academics sit in the Conflict Free Smelter Audit Review Committee which decides whether a company is in compliance. Civil society organizations or governments are not part of the official process. They however have been consulted in the development of the CFS program and protocols.
Content	The CFS aims to enable companies to source conflict-free minerals. The minerals of interest are tantalum, tin, tangusten and gold.[64] Smelters and refiners that want to be considered in compliance with the CFS Program need to implement due diligence processes and be able to demonstrate that all sources of materials procured by the smelting company are conflict-free. This includes also material that is identified as recycled. The due diligence requirements of the CFS follow the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas and in particular its supplements on tin-tantalum-tangusten and gold (see 2.1.5).
Market scope	**Geographically** ☐ worldwide ☑ Conflict regions *Comment* The CFS assesses materials from global sources. Its focus however is on conflict regions. **Sectoral** ☐ No sectoral focus ☑ Sector-specific *Comment* The CFS is a sectoral initiative from the electronic industry. Since the materials assessed are also used in other industries, it also has repercussions for other sectors of economy such as the automotive, aerospace, jewelry, packaging, defence, toy and housing industries.[65]
Verification / Grievance and Remedy	**Verification** ☐ No mechanism ☐ Company reporting ☑ External assessment ☐ Other mechanism *Comment* The CFS verification consists in a two-step process. An external auditor assesses the company's policies and codes relating to

[62] See website CFS: www.conflictfreesmelter.org.
[63] The Electronic Industry Citizenship Coalition is a group through which the world's leading electronic companies collaborate on social, ethical and environmental responsibility. The Global e-Sustainability Initiative represents 30 of the world's leading service providers and vendors from the Information and Communication Technology (ICT) sector and aims at fostering the responsible use of ICT.
[64] This corresponds to minerals included in section 1502 of the 2010 Dodd Frank Act.
[65] CFS 2012:6.

	conflict minerals and conducts on-site-due diligence reviews to assess the provenience of the material. The auditors formulate recommendations whether they consider the company to be in compliance. The actual decision is made by the Conflict-Free Smelter Audit Review Committee. It includes representatives of the EICC and GeSI, from partner industry associations and companies, as well as academics. The assessment is valid for one year from the date of the assessment.[66] A list with the companies that are considered to be in compliance with the CFS is published on the CFS website.[67] **Grievance and Remedy** ☑ No mechanism ☐ Existing mechanism *Comment* The CFS does not include a grievance or remedy mechanism.
Reference to conflict	☑ Conflict specific ☐ Direct reference ☐ No reference *Comment* The CFS was designed to address sourcing in conflict regions. It does not include further specification of the countries or regions it considers to be in conflict.
Strengths and limits	+ - The CFS addresses a crucial point in the mineral supply chain. Smelters and refiner processing is where distinguishable minerals and metals are converted to indistinguishable metals or derivates. - The CFS has a relatively far-reaching verification mechanism including external company assessments. - The CFS intends to be compatible with the Dodd Frank act section 1502. It is a crucial instrument for downstream companies to trace the origin of the material they use. - The CFS can help curb negative effects of the Dodd Frank act section 1502 on livelihoods in the DRC as it enhances the traceability of minerals stemming from this country. - - The CFS does not include civil society organizations in the assessment processes. - The CFS is still a relatively new program and the number of companies that have been assessed is still relatively low.

[66] CFS 2012:4.
[67] See website CFS: www.conflictfreesmelter.org.

2.2.8 Conflict-Free Gold Standard[68]	
Origin	The Conflict-Free Gold Standard (CFGS) is an industry-led initiative to combat the potential misuse of mined gold to fund armed conflict. It was launched in 2012, mainly to support the industry's compliance with the Dodd-Frank-Act section 1502 which requires companies to state whether the gold sourced in the Democratic Republic of Congo and used in or for their products is conflict free.
Stakeholder	The CFGS was designed and is run by the World Gold Council to complement the Gold Supplement of the OECD Due Diligence Guidelines for Conflict-Affected and High-Risk Areas (see 2.1.5). It is directed at World Gold Council member companies and other entities involved in the extraction of gold.
Content	The CFGS sets out a process and criteria companies have to adhere to if they want their gold originating in conflict-affected or high-risk areas to be labeled in conformance with the standard. In this sense, it constitutes a certification mechanism for conflict-free gold mines. The standard is organized along a decision chart, leading companies through a due diligence process. The standard asks companies to ensure that the sourced gold and gold bearing material stemming from a specific mine has not contributed to unlawful armed conflict, serious human rights abuses or breaches of international humanitarian law.
Market scope	**Geographically** ☐ worldwide ☑ Conflict regions *Comment* The CFGS applies to all operations of gold mining companies in conflict-affected or high-risk areas. The definition of conflict-affected or high-risk areas is rather restrictive (see below). The geographical scope therefore is limited to a small number of conflict-affected countries. **Sectoral** ☐ No sectoral focus ☑ Sector-specific *Comment* The scope of the CFGS is limited to the gold mining industry.
Verification / Grievance and Remedy	**Verification** ☐ No mechanism ☑ Company reporting ☐ External assessment ☐ Other mechanism *Comment* The companies that want to label their products as in conformance with the CFGS are expected to report at least annually. The so called Conflict-Free Gold Report should review the conformance on a site-by-site basis and must include all operating assets under the control of, or managed by, the company. An independent external assurance provider has to review whether the company's report is in accordance with the CFGS.

[68] World Gold Council 2012.

	Grievance and Remedy ☑ No mechanism ☐ Existing mechanism *Comment* The CFGS does not create a remedy mechanism for victims of human rights violations by companies. Within the standard, companies are requested to take remedial measures in case a company identifies involvement in serious human rights violations or breaches of international humanitarian law.
Reference to conflict	☑ Conflict specific ☐ Direct reference ☐ No reference *Comment* The CFGS is specifically oriented towards gold originating in conflict-affected or high risk-areas. The standard refers to the Heidelberg Conflict Barometer in order to designate areas considered conflict-affected or high risk. The criteria for an area to be conflict-affected or high-risk and therefore relevant for the CFGS is that the country or area has been ranked by the conflict barometer as 5 (war) or 4 (limited war) in the reporting year or one of the two previous years.[69]
Strengths and limits	+ - Being broadly accepted by the industry and providing relatively specific guidance, the CFGS has the potential to significantly contribute to reduce the negative effects of gold mining in conflict-affected and high-risk areas. - The CFGS is the first initiative that tries to establish some sort of a certification for conflict sensitive business.
	- - The CFGS is a voluntary instrument and it remains to be seen how rigorously the CFGS will be implemented by the companies. - The CFGS does not address the large problem of artisanal mining and only includes industrial mines. - The definition of conflict-affected and high-risk is relatively restrictive. Among the 30 most important producers of gold (which account for 90% of total production), only Mali, Colombia and Kirgizstan would be considered as relevant for the CFGS.[70] - The verification mechanism leaves a lot of room for interpretation. Much of the effectiveness of the standard will depend on the choice of and resources provided to the external assurance providers.

[69] If a company considers that the area where its mine is located within a country categorized by the Heidelberg Conflict Barometer 5 or 4 is not conflict-affected or high-risk, the mine can be exempted from the process. However, the company needs to provide evidence supporting this conclusion and make it public. See: World Gold Council 2012:14.

[70] This argument is based on the 2009 United States geological survey and the 2011 Conflict Barometer. Note: According to the Conflict Barometer, the Russian Federation (5th largest producer worldwide) would also be considered conflict-affected or high-risk due to its conflicts in Dagestan and Ingushetia. However, the major gold mines in Russia are located in other areas and a company therefore is likely to be able to successfully argue that they do not fall under the GFCS.

2.3 NGO Guidelines

2.3.1 Conflict Sensitive Business Practice: Guidance for Extractive Industries (International Alert)[71]

Origin	The 2005 document ‚Conflict Sensitive Business Practice: Guidance for Extractive Industries' contains guidelines that outline a process for companies in the extractive sector to improve their impact on host countries.
Stakeholder	The guidance has been developed by the NGO International Alert in consultation with businesses, other NGOs and consultancy firms specialized in political risk assessment and management.
Content	The guidance provides extensive practical guidance on conflict risk and impact assessment and specifies nine flashpoint issues of particular relevance: stakeholder engagement, resettlement, compensation, indigenous peoples, social investment, dealing with armed groups, security arrangements, human rights as well as corruption and transparency. Its approach differs from other instruments in the sense that it explicitly covers the two way relationship between company and conflict: conflict risks to the company and company impacts on the conflict.
Market scope	**Geographically** ☐ worldwide ☑ Conflict regions *Comment* The Guidance specifically addresses companies working in conflict regions. **Sectoral** ☐ No sectoral focus ☑ Sector-specific *Comment* The guidance focuses on the extractive industries. Nevertheless, the sections on risk and impact assessments as well as most of the flashpoint issues contain valuable guidance for all companies operating in conflict affected areas.
Verification / Grievance and Remedy	**Verification** ☑ No mechanism ☐ Company reporting ☐ External assessment ☐ Other mechanism *Comment* The instrument provides mere guidance and does not create a system of verification. Nevertheless, it recommends companies to join initiatives such as the Voluntary Principles on Security and Human Rights or the Extractive Industry Transparency Initiative which contain some (even though weak) verification procedures.

[71] International Alert 2005.

	Grievance and Remedy ☑ No mechanism ☐ Existing mechanism *Comment* The guidance does not create a grievance or remedy mechanism. However it provides some detail on how companies ought to implement grievance mechanisms and allow for compensation.[72]
Reference to conflict	☑ Conflict specific ☐ Direct reference ☐ No reference *Comment* Focusing on conflict sensitive business, the guidance was designed for companies operating in conflict-affected areas. It understands conflict in a broad sense that includes also non-violent manifestations. According to the authors, the goal of conflict-sensitive business is to prevent violent conflict or to contribute to its transformation towards peace.[73]
Strengths and limits	+ - The guidance of International Alert has been a landmark document on conflict sensitive business. It has successfully managed to combine peacebuilding knowledge with methodologies of political risk management, standards on environmental and social impact assessment as well as concepts of corporate social responsibility. - The guidance is practical and detailed at the same time. - The document contains most valuable guidance for all companies active in conflict affected areas. Its potential reach hence is far beyond the extractive industry.
	- - The document is not backed by mechanisms fostering company compliance with it.

[72] Most information in this regard is included in the Flashpoint issues on Compensation, Resettlement and Indigenous peoples. See International Alert 2005.
[73] International Alert 2005:3.

2.3.2 Conflict Sensitive Business Practice: Engineering Contractors and their Clients (International Alert and Engineers Against Poverty)[74]

Origin

The 2006 document Conflict Sensitive Business Practice: Engineering Contractors and their Clients is a guidance companies involved in large-scale infrastructure development including roads, bridges, dams and other energy generating projects.

Stakeholder

The document has been developed by International Alert and Engineers Against Poverty.

Content

The guidance examines some of the key issues related to engineering contractors and conflict sensitivity and introduces steps through which these issues can be understood and managed in a conflict sensitive way. Examples of issues discussed include the identification and cooperation with stakeholders, security arrangements as well as corruption and transparency. Like the International Alert guidance on conflict sensitive business practice for the extractive industries (see 2.3.1), the guidance on engineering contractors looks (yet in much less detail) at both conflict risks to the company and company impacts on the conflict.

Market scope

Geographically

☐ worldwide ☑ Conflict regions

Comment
The guidance focuses on conflict affected areas.

Sectoral

☐ No sectoral focus ☑ Sector-specific

Comment
The instrument applies to engineering contractors.

Verification / Grievance and Remedy

Verification

☑ No mechanism ☐ Company reporting
☐ External assessment ☐ Other mechanism

Comment
The guidance does not include a verification mechanism.

Grievance and Remedy

☑ No mechanism ☐ Existing mechanism

Comment
There is no remedy mechanism created by the guidance.

Reference to conflict

☑ Conflict specific ☐ Direct reference
☐ No reference

Comment
Engineering contractors initially rarely operate in open conflict situations, however they are among the first companies to enter a post-conflict situation. The guidance therefore focuses at assisting companies in avoiding contributing to the escalation or resurrection of conflict. When analyzing the conflict context, emphasis is led on understanding political and social tensions that have the potential to lead to the outbreak of violence.

[74] International Alert and Engineers Against Poverty 2006.

Strengths and limits	+	- The guidance is one of the rare sector-specific instruments on conflict sensitive business that does not focus on the extractive industries. - It raises the central issues for engineering contractors and describes a process to assess and mitigate conflict-related risks. - In combination with the much more detailed guidance of International Alert on conflict sensitive business practice for the extractive industries, it outlines a relatively detailed way to operating in a conflict sensitive way.
	-	- The guidance remains a voluntary instrument without verification or remedy mechanisms to foster company compliance with it.

2.3.3 Conflict Sensitive Project Finance: Better Lending Practice in Conflict-Prone States (International Alert)[75]

Origin	The 2006 document 'Conflict Sensitive Project Finance: Better Lending Practice in Conflict-Prone States' by International Alert presents an introduction into the process and key issues of responsible lending in conflict prone states.
Stakeholder	The guidance was developed by International Alert. Inputs were delivered by persons from various financial institutions as well as NGOs.
Content	The guidance describes how financial institutions can add a conflict-lens to their political risk analysis and environmental and social impact assessments. The guidance hence covers both the fact that companies might negatively impact on or be adversely impacted by violent conflict. The document uses the same concepts and processes as the International Alert guidelines on conflict sensitive business practices for the extractive industries; it is however much less detailed.
Market scope	**Geographically** ☐ worldwide ☑ Conflict regions *Comment* The guidance focuses on conflict affected areas. **Sectoral** ☐ No sectoral focus ☑ Sector-specific *Comment* The instrument applies to financial institutions involved in project financing.
Verification / Grievance and Remedy	**Verification** ☑ No mechanism ☐ Company reporting ☐ External assessment ☐ Other mechanism *Comment* The guidance does not include a verification mechanism. **Grievance and Remedy** ☑ No mechanism ☐ Existing mechanism *Comment* If there is no grievance and remedy mechanism.
Reference to conflict	☑ Conflict specific ☐ Direct reference ☐ No reference *Comment* The guidelines are developed to assist financial institutions in financing projects in conflict prone regions. It conceptualizes conflict broadly, understanding the term as incompatibilities of interests among two or more parties that express hostile attitudes, or take actions that damage the other's ability to pursue its interest and that can have violent or non-violent manifestations.

[75] International Alert 2006.

Strengths and limits	+	- As one of the few guidelines on conflict sensitive business, this instrument does not focus on the extractive industries. - It provides a good introduction to conflict sensitive lending practices. If it is used in combination with the much more detailed International Alert Guidance on conflict sensitive business practices in the extractive sector, the instrument can provide quite detailed guidance on conflict sensitive business. - The guidelines can be used as a tool to implement the IFC Performance Standards (see 2.1.7) as well as the Equator Principles (see 2.2.4).
	-	- In and of itself, the document is not very detailed. - The guideline is a voluntary tool without verification or remedy mechanisms to foster company compliance with it.

2.3.4 Decision Map: Doing Business in High Risk Human Rights Environments Danish Institute for Human Rights (DIHR)[76]

Origin	The 2010 Decision Map on Doing Business in High Risk Human Rights Environments (Decision Map) by the DIHR is a document that lays out a decision making process on whether responsible business is possible in a specific high risk human rights area.
Stakeholder	The Decision Map strongly focuses on company-state relations and the danger of corporate complicity in human rights violations committed by the state.
Content	The Decision Map is based on four considerations on the conditions in the host country and the potential impact the company's operations have on the human rights situation. The first condition asks for the conformity of operations with international sanctions, popular sovereignty and the avoidance of legitimizing egregious human rights violations. The second condition looks into the direct or indirect potential connections with human rights violations. Third, the characteristics of the state government are taken into consideration (oppressive/ ineffective). And finally, it asks the company to reflect on whether its operations strengthen civil society or oppressive governments.
Market scope	**Geographically** ☑ worldwide ☐ Conflict regions *Comment* The applicability of the Decision Map is not limited to conflict regions. It applies for operations in any country with a weak human rights record. **Sectoral** ☐ No sectoral focus ☑ Sector-specific *Comment* The Decision Map can be applied by companies of any sector of economy.
Verification / Grievance and Remedy	**Verification** ☑ No mechanism ☐ Company reporting ☐ External assessment ☐ Other mechanism *Comment* The Decision Map does not include a verification mechanism. **Grievance and Remedy** ☑ No mechanism ☐ Existing mechanism *Comment* There are no grievance or remedy mechanisms created by the Decision Map.

[76] Danish Institute for Human Rights 2010.

Reference to conflict	☐ Conflict specific ☐ Direct reference ☑ No reference *Comment* The Decision Map applies to 'high risk human rights environments' and does not make reference to conflict affected areas. However, any conflict affected area can be seen as high risk human rights environment in the sense of the document.	
Strengths and limits	+	- The map's approach differs in an interesting way from the other instruments treated in this study in the sense that the main question addressed is *whether* and *not* how a company shall invest in difficult areas. - The tool is clearly structured and easily applicable.
	-	- The Decision Map strongly focuses on the relations between companies and states and puts little emphasis on company-society relations. - Limiting itself on human rights, the tool offers limited guidance on how companies can deal with other conflict specific risks and challenges.

2.3.5 swisspeace Business Conflict Check[77]	
Origin	The Business Conflict Check (BCC) developed by the Peace Research Institute swisspeace in 2012 is a web-based self-assessment tool for companies operating or planning to operate in conflict affected areas.
Stakeholder	The BCC has been developed in close cooperation with swisspeace's Business Advisory Board and mainly addresses small and medium companies in order to sensitize their activities in conflict-affected and high-risk areas. Departing from the assumption that small and medium businesses do not have the resources to hire CSR or risk management staff, the tool places strong emphasis on applicability.
Content	Based on a set of questions on the business context, the interactions between the company and the context as well as mitigation measures, the tool provides for a rough picture on conflict-related risks. The BCC was developed as a conflict sensitivity sensitizing tool for companies.
Market scope	**Geographically** ☐ worldwide ☑ Conflict regions *Comment* The BCC focuses on companies operating or planning to operate in conflict affected areas. **Sectoral** ☑ No sectoral focus ☐ Sector-specific *Comment* The BCC is designed to be applicable for companies of all sectors of economy.
Verification / Grievance and Remedy	**Verification** ☑ No mechanism ☐ Company reporting ☐ External assessment ☐ Other mechanism *Comment* The BCC is not part of a broader instrument that would include verification of company performance. **Grievance and Remedy** ☑ No mechanism ☐ Existing mechanism *Comment* The BCC does not include a remedy mechanism for victims of adverse effects of company engagement in conflict affected areas. It nevertheless in some of the questions on mitigations refers to the necessity of companies to put in place grievance and remedy mechanisms.

[77] See website swisspeace Business Conflict Check: http://businessconflictcheck.swisspeace.ch/en/

Reference to conflict	☑ Conflict specific ☐ Direct reference ☐ No reference *Comment* The BCC was designed specifically for companies active in conflict affected regions.	
Strengths and limits	+	- The BCC is an easily accessible tool for company representatives and focuses on small and medium sized companies. - It sensitizes businesses with the most relevant issues for conflict sensitive business and asks the relevant questions to provide a rough first assessment of company risks and impacts.
	-	- Being an introductory tool, it however has a number of limits. First, it does not provide in-depth guidance on how to operate (this would be subject to project-specific consultancy of swisspeace to which the BCC directs companies). - The tool is relatively new and not widely known.

3. Conclusions

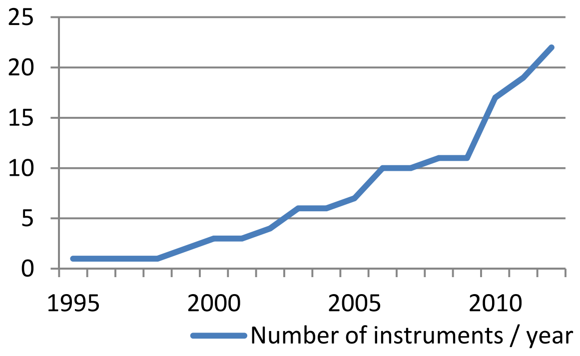
3.1 Overall Assessment

The aim of this report was to review existing guidelines and initiatives that might inform conflict-sensitive business practices.

Development of instruments

If we look at when the initiatives assessed in this report were developed, we can see that the OECD Guidelines for Multinational Enterprises which were adopted first in 1976 were for a long time the only reference point for guidance on responsible business practice. This changed dramatically since the end of the 1990s (see Figure 1).[78] Within the UN, the issue was taken up very prominently through the Global Compact. This has created a dynamic that has eventually led to the 2011 UN Guiding Principles on Business and Human Rights. We also see that already after 2001, companies and industry organizations got increasingly active in contributing to sector-specific guidelines.[79] While civil society organizations were at first almost exclusively involved in putting pressure on governments and companies to ensure responsible business conduct, more and more organizations started to engage constructively with companies and developed their own guidelines after 2005. Most important in this regard is International Alert who advised several industries on their conflict-sensitive business practices.

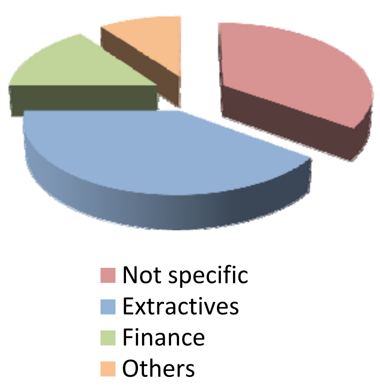
Figure 1: Development of instruments



Sectors

In terms of the industries addressed, eight out of twenty initiatives deal with the extractives sector (see Figure 2). The fact that six out of ten initiatives with strong business involvement refer to the extractive industries indicates that the relevance of fostering responsible business is high in this sector and that this is widely recognized by the industry itself. The financial industry is the second sector that has attracted some attention. The IFC Performance Standard, the Equator Principles as well as the International Alert guidance on lending in conflict prone states provide considerably detailed guidelines for responsible financing. Two instruments have been reviewed that focus on other sectors of economy: the International Code of Conduct for Private Security Service Providers and the International Alert conflict sensitivity guidelines for engineering contractors.

Figure 2: Sectors



[78] Figure 1 represents the year in which the 20 instruments reviewed in this report were launched. Updates of instruments are considered as a new launch (this is the case for the OECD Guidelines on Multinational Enterprises in 2011 and the IFC Performance Standards in 2012).
[79] Examples include: the VP, the EITI, the KPCS and the EP.

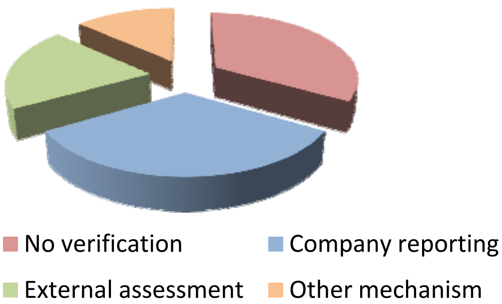
Most of the initiatives from international organizations in turn are not sector specific. The exceptions in this regard are the OECD Due Diligence Guidance which concentrates on the extractive industries.

The sectoral reach of the guidelines assessed is considerable. Many of the instruments set general guidance that applies to all sectors of economy. Moreover, many of the instruments focusing on specific sectors have implications for other industries. The finance standards are relevant for all companies that want to benefit from loans of the IFC or Equator Principle financial institutions. In the case of the extractive industries, especially upstream companies are influenced by the guidance of standards such as the Conflict Free Smelter Assessment Program or the Conflict Free Gold Standard. Finally, many of the issues and processes outlined in some of the sector-specific guidelines can also guide companies in other sectors of economy to assess their impacts and develop measures and processes of mitigation. Conflict sensitivity guidelines that highlight the specific challenges in other sectors such as agribusiness or tourism would however be of great use.

Verification mechanisms

All of the initiatives reviewed in this report are voluntary and not legally binding. This is obviously true for the guidelines developed by NGOs with the purpose to guide companies in developing responsible business practices (see 2.3). If we leave these instruments away, the picture gets more nuanced. Among the 15 initiatives, ten have no verification mechanism or include company reporting without effective external review[80] (see Figure 3). The general level of verification hence is rather weak. The remaining five initiatives are either based on external assessments or create other verification processes. The most sophisticated verification processes can be found with the IFC Performance Standards, the EITI and the International Code of Conduct for Private Security Service Providers[81]. Independently of formal verification processes, some of the instruments create a de facto requirement for a specific group of companies to live up to the standards. In the case of the Kimberley Process Certification Scheme, companies that want to continue being part of the diamond trade need to participate in the system. In other cases such as the Equator Principles and the IFC Performance Standard, companies that want to benefit from certain services need to adhere to the respective standard.

Figure 3: Verification mechanisms



Grievance mechanisms

The picture is similarly mixed in terms of grievance mechanisms for victims of corporate activities. If we exclude again the NGO guidelines, eleven out of 15 initiatives do not include any remedy mechanism (see Figure 4). The remaining four initiatives are based on three distinct mechanisms: the OECD National Contact Points for the OECD Guidelines for Multinational Enterprises and the OECD Due Diligence Guidance, the Office of the Compliance Advisor Ombudsman for the IFC Performance Standard and the Secretariat of the International Code of Conduct Association.[82] All

[80] The five initiatives are: the UNGC, the UNGC and PRI Guidance for Conflict Affected and High Risk Areas, the EP, the CFGS, and the VP.
[81] The far-reaching verification mechanism of the ICoC was negotiated in February 2013 and so far exists only on paper.
[82] The secretariat of the ICoC was negotiated in February 2013 and so far exists only on paper.

of these three processes include a possibility for victims and their representatives to bring forward alleged violations of the respective principles. Processes and the possibility to sanction however differ significantly. As for the National Contact Points, most of them do not have the mandate or resources to thoroughly investigate and state if they consider a company to have been in inconformity with the OECD Guidelines.[83] The Office of the IFC Compliance Advisor Ombudsman in turn does not focus on the companies but rather the failures of the IFC to ensure company compliance. More far-reaching is the envisaged grievance mechanism of the International Code of Conduct on Private Security Providers, which can result in the exclusion of the company from the standard if it fails to cooperate or take effective measures to remedy victims and ensure future compliance.

Figure 4: Grievance mechanisms

States that are in the process of implementing their duties from the third pillar of the UN Guiding Principles on Business and Human Rights which asks states to allow for effective remedy, will find inspiration, experience and existing structures in these mechanisms. NCPs could be rendered more effective and remedy components could be included (and where they are present strengthened) in multi-stakeholder initiatives.

3.2 Reference to Conflict and Conflict-Sensitive Practices

Reference to conflict

The instruments reviewed were chosen on the basis of their assumed relevance for companies operating in conflict prone regions. It is therefore not surprising that many of them are conflict-specific. In the case of initiatives from international organizations, the UN Global Compact and the OECD have developed specific guidance for conflict prone regions that specify their broader, not conflict-specific frameworks. As for the instruments with strong business involvement, four initiatives look into minerals sourced in conflict prone regions: the Kimberley Process Certification Scheme on diamonds, the Conflict-Free Smelter Assessment Program on tantalum, tin, tangusten and gold, the Conflict-Free Gold Standard on gold, and the IPIECA guide on oil and gas. In terms NGO guidelines, this report reviewed almost exclusively conflict-specific guidelines, most importantly the three guidelines developed by International Alert for the extractive industries, project financing and engineering.

It is interesting to see, that among the non-conflict-specific guidelines, almost all include a direct reference to conflict.[84] These references vary considerably in terms of details. In general, they point at specific challenges that arise in conflict prone regions and/or ask companies to take enhanced precaution when active in such contexts. Hence, even the instruments that do not specifically focus on conflict prone regions recognize the need to consider conflict-specific issues.

[83] Notable exceptions in this regard are the Dutch and Norwegian National Contact Points.
[84] The three exceptions are the VP, the EITI and the Decision Map of the Danish Institute for Human Rights, all of which are highly relevant for conflict prone regions.

Guidance for conflict-sensitive business

A key objective of this report was to see to which extent existing instruments assist companies in implementing conflict sensitive business. First, the assessments have showed that conflict sensitivity seems to be the most appropriate approach to follow if a company seeks to conduct responsible business in conflict prone regions. Second, the different instruments reviewed gave a variety of insights in terms of the three steps of conflict sensitivity: understanding the context, assessing the impact and developing and implementing mitigation measures.

For companies active in conflict prone regions, *understanding the context* includes conducting a conflict analysis at national and local level which is largely independent from the business operation in question. Carrying out a conflict analysis requires a sound methodology and in-depth knowledge of the local context. Most of the instruments (including the conflict-specific ones) ask for the analysis of the context prior to engagement. However, they fail to provide companies with the necessary tools to do so. A notable exception in this regard is the International Alert guidance on conflict sensitive business practice in the extractive sector. It takes the best out of conflict analysis tools from development and peacebuilding practice and adapts it to a practical guide for companies. These guidelines can inform any company that aims at implementing conflict-sensitive business, irrespective of the sector. There is however a need for all initiatives and especially the conflict-specific ones, to sensitize companies on the benefits of conducting a conflict analysis, to provide for the respective tools, and to include these considerations in the due diligence processes required for complying with the respective standards.

The second step, the *analysis of company-context interaction*, is more widely discussed in the various instruments. Some of the non-conflict-specific guidelines of International Organizations such as the OECD Guidelines for Multinational Enterprises, the ISO 26000 as well as the IFC Standard outline general expectations on many of the issues that are also most relevant in terms of conflict sensitivity, for instance provisions on human and labor rights or on community and government relations. In order to thoroughly assess the impact of the company on and by the conflict context, companies however need to rely on the conflict-specific tools.[85] Most of these instruments focus on the extractive or finance industry while other important sectors such as tourism or agribusiness remain without specific guidance. This however does not mean that companies of these sectors could not find a vast amount of guidance in the existing instruments that is also relevant for their operations.

When it comes to *developing and implementing mitigation policies* the picture is similarly mixed. The participation in some of the instruments reviewed constitutes itself a potential mitigation policy for specific issues.[86] However, the different guidelines reviewed in this report remain remarkably vague on different approaches and experiences for mitigation measures. Guidelines that include mitigation policies to a certain degree are the International Alert Guidance on Conflict Sensitive Business Practice in the Extractive Sector and the OECD Due Diligence Guidance. Collecting best practices and developing tools that can assist companies in developing mitigation policies would be an important gap to address.

[85] Examples include the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, the IPIECA guide for the oil and gas industry, the three guidelines of International Alert on the extractive industries, engineering and project financing.

[86] This holds particularly true for business-led initiatives such as the Kimberley Process, the Conflict Free Smelter Assessment Program the Conflict-Free Gold Standard on the problem of conflict minerals, the EITI on transparency of company-state payments, or the Voluntary Principles on Security and Human Rights or the International Code of Conduct on dealing with private and public security providers.

This report shows, that the fact that negative social effects of businesses in conflict-affected areas continue to occur seems in the most cases not to be a consequence of lacking guidance. It rather reflects a lack of corporate commitment or capacity to identify the relevant guidance and to thoroughly implement it. While there is a clear trend towards not only more legally binding obligations, but also more effective voluntary initiatives, verification of company compliance with the various guidelines as well as remedy mechanisms in case of breaches of the principles remain weak in almost all of the instruments. As long as many companies can still get away with having destabilizing effects on their operating environment, the existing guidance on conflict sensitive business will not have tapped its full potential.

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