



OECD Responsible Business Conduct Policy Reviews

ECUADOR



Please cite this publication as:

OECD (2022), *OECD Responsible Business Conduct Policy Reviews: Ecuador*,
<https://mneguidelines.oecd.org/oecd-responsible-business-conduct-policy-reviews-ecuador.pdf>

© OECD 2022

This work is published under the responsibility of the Secretary-General of the OECD. The opinions expressed and arguments employed herein do not necessarily reflect the official views of the Member countries of the OECD. This document, as well as any data and any map included herein, are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.



**Funded by
the European Union**

Foreword

In recent years, expectations that businesses should produce and supply goods and services responsibly have grown. It is widely recognised nowadays that companies should contribute to sustainable development and observe principles and standards of Responsible Business Conduct (RBC). These growing expectations have been accompanied by an increased acknowledgement that Governments have an essential part to play in creating an enabling policy and regulatory environment to drive, support and promote responsible business practices.

This OECD RBC Policy Review of Ecuador was requested by the Ministry of Foreign Affairs and Human Mobility of Ecuador. It takes stock of relevant legislations, regulations and policies in Ecuador in areas covered by the OECD Guidelines for Multinational Enterprises, as well as in other relevant policy areas. On this basis, it formulates policy recommendations to support Ecuador not only regulating and enforcing in support of RBC, but also leveraging and incentivising responsible business practices. These recommendations are key to build an enabling policy and regulatory environment for RBC in Ecuador, which in turn can support Ecuador's current growth and development strategy based on increased openness to international trade and foreign investment. Additionally, the Review, and its elaboration process, constitute key elements both for the development process and for the content of the National Action Plan on Business and Human Rights that the Ecuadorian Government is currently developing.

This Review was prepared by the OECD Centre for Responsible Business Conduct under the supervision of Froukje Boele, Head of Public Policy and Regional Programmes, and the overall guidance of Allan Jorgensen, Head of the Centre. The team that drafted the Review was led by Marie Bouchard (principal author) and comprised of Mónica Garay, Lena Diesing, and Sebastian Weber, with the help of Juan Arias and Fiorenza Herrera Diaz. Contributions were received from Stephanie Venuti and Frédéric Wehrlé. Roxana Glavanov provided invaluable editorial support. Inmaculada Valencia and Germán Zarama played a key role in supporting the elaboration process of the Review.

In addition, the draft of the Review was discussed and shared for comments with different parts of the OECD Secretariat, including: the Anti-Corruption Division, the Corporate Governance and Corporate Finance Division and the Investment Division of the Directorate for Financial and Enterprise Affairs; the Environmental Performance and Information Division of the Environment Directorate; the Export Credit Division and the Trade Policy Division of the Trade and Agriculture Directorate; as well as the Infrastructure and Public Procurement Division and the Public Sector Integrity Division of the Public Governance Directorate. The Review was also presented and submitted for comments to the OECD Working Party on Responsible Business Conduct in November 2022.

More than thirty Ministries and government entities, as well as local stakeholders, participated in the elaboration process of the Review and contributed significantly to its development. In particular, the Ministry of Foreign Affairs and Human Mobility provided key support throughout the process. The International Labour Organization and the Office of the United Nations High Commissioner for Human Rights also submitted valuable comments on the draft Review.

The RBC Policy Review of Ecuador was produced with the financial assistance of the European Union in the context of the Project "Responsible Business Conduct in Latin America and the Caribbean". The views expressed herein can in no way be taken to reflect the official opinion of the European Union.

The information contained in the Review is current as of September 2022.

Table of contents

Foreword	3
Acronyms and abbreviations	6
Executive summary	11
Introduction and overview	14
1 What is Responsible Business Conduct?	17
1.1. OECD instruments and tools on RBC	18
1.2. Alignment with other international instruments	20
2 Context: opportunities and challenges for Responsible Business Conduct in Ecuador	22
2.1. Socio-economic background	22
2.2. International instruments and national policies supporting RBC	25
2.3. Stakeholders' awareness of RBC	27
3 Regulating and enforcing in support of Responsible Business Conduct in Ecuador	30
3.1. Human rights	30
3.2. Labour rights	43
3.3. Environment	54
3.4. Anti-corruption and integrity	65
4 Leveraging and incentivising Responsible Business Conduct in Ecuador	75
4.1. Exemplifying RBC in the Government's operations as an economic actor	75
4.2. Including considerations relating to RBC in Ecuador's economic policies that shape business conduct	95
5 Moving towards an enabling environment for Responsible Business Conduct in Ecuador	113
5.1. Seizing opportunities and addressing the challenges to build an enabling environment for RBC	114
5.2. Taking steps towards the construction of an enabling environment for RBC	115
5.3. Policy recommendations to build an enabling environment for RBC	116

Annex A. Consultations with government entities, business associations and stakeholders	120
Annex B. Methodology and sample of the OECD 2020 Business Survey on Responsible Business Conduct in Latin America and the Caribbean	122
References	123
Notes	158

Acronyms and abbreviations

2030 Agenda	2030 Agenda for Sustainable Development
1998 ILO Declaration	ILO Declaration on Fundamental Principles and Rights at Work
ACI Guidelines	OECD Guidelines on Anti-Corruption and Integrity in State-Owned Enterprises
AITE	Ecuadorian Textile Industries Association (<i>Asociación de Industrias Textiles del Ecuador</i>)
ALADI	Latin American Integration Association (<i>Asociación Latinoamericana de Integración</i>)
AME	Ecuadorian Association of Municipalities (<i>Asociación de Municipalidades del Ecuador</i>)
ANFAB	National Association of Food and Beverage Manufacturers (<i>Asociación Nacional de Fabricantes de Alimentos y Bebidas</i>)
ASTAC	Trade Union of Agricultural Workers and Farmers (<i>Asociación Sindical de Trabajadores Agrícolas y Campesinos</i>)
AZÚCAR	Afro-Ecuadorian Social, Ethno-Educational and Cultural Development Foundation (<i>Fundación de Desarrollo Social, Etnoeducativa y Cultural Afroecuatoriana</i>)
BIESS	Ecuadorian Institute of Social Security Bank (<i>Banco del Instituto Ecuatoriano de Seguridad Social</i>)
BIT	Bilateral Investment Treaty
CAITISA	Citizens' Commission for a Comprehensive Audit of Reciprocal Investment Protection Treaties and of the International Arbitration System for Investments (<i>Comisión para la Auditoría Integral Ciudadana de los Tratados de Protección Recíproca de Inversiones y del Sistema de Arbitraje Internacional en Materia de Inversiones</i>)
CALTU	National Chamber of Footwear (<i>Cámara Nacional de Calzado</i>)
CAN	Andean Community (<i>Comunidad Andina</i>)
CANAPE	National Chamber of Small and Medium-Sized Enterprises (<i>Cámara Nacional de Pequeñas y Medianas Empresas</i>)
CBD	Convention on Biological Diversity
CBI	Ecuador's Model Bilateral Investment Agreement (<i>Convenio Bilateral de Inversión</i>)
CCQ	Quito Chamber of Commerce (<i>Cámara de Comercio de Quito</i>)
CEACR	Committee of Experts on the Application of Conventions and Recommendations
CEE	Ecuadorian Business Committee (<i>Comité Empresarial Ecuatoriano</i>)
CEICCE	International Experts Commission for the Fight Against Corruption in Ecuador (<i>Comisión de Expertos Internacionales de Lucha contra la Corrupción en el Ecuador</i>)
CELEC EP	Ecuador Electricity Corporation (<i>Corporación Eléctrica del Ecuador</i>)
CEMDES	Business Committee for Sustainable Development of Ecuador (<i>Consejo Empresarial para el Desarrollo Sostenible del Ecuador</i>)
CEOSL	Ecuadorian Confederation of Free Trade Unions (<i>Confederación Ecuatoriana de Organizaciones Sindicales Libres</i>)
CEPAI	Strategic Committee for the Promotion and Attraction of Investments (<i>Comité Estratégico de Promoción y Atracción de Inversiones</i>)
CERD	United Nations Committee on the Elimination of Racial Discrimination
CERES	Ecuadorian Consortium for Social Responsibility (<i>Consortio Ecuatoriano para la Responsabilidad Social</i>)
CESCR	United Nations Committee on Economic, Social and Cultural Rights
CFIA	Cooperation and Facilitation Investment Agreement
CICC	Inter-Agency Committee on Climate Change (<i>Comité Interinstitucional de Cambio Climático</i>)

CIEDH	Information Centre on Business and Human Rights (<i>Centro de Información sobre Empresas y Derechos Humanos</i>)
CITEC	Ecuadorian Chamber of Innovation and Technology (<i>Cámara de Innovación y Tecnología Ecuatoriana</i>)
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
CJ	Council of the Judiciary (<i>Consejo de la Judicatura</i>)
CNACE	Ecuador National Anti-Corruption Commission (<i>Comisión Nacional Anticorrupción del Ecuador</i>)
CNEL EP	National Electricity Corporation (<i>Corporación Nacional de Electricidad</i>)
CNI	National Councils for Equality (<i>Consejos Nacionales de Igualdad</i>)
CNIG	National Council for Gender Equality (<i>Consejo Nacional para la Igualdad de Género</i>)
CNII	National Council for Intergenerational Equality (<i>Consejo Nacional para la Igualdad Intergeneracional</i>)
CNIMH	National Council for Equality in Human Mobility (<i>Consejo Nacional para la Igualdad de Movilidad Humana</i>)
CNIPN	National Council for the Equality of Peoples and Nationalities (<i>Consejo Nacional para la Igualdad de Pueblos y Nacionalidades</i>)
CNT EP	National Telecommunications Corporation (<i>Corporación Nacional de Telecomunicaciones</i>)
COGEP	General Organic Code of Proceedings (<i>Código Orgánico General de Procesos</i>)
COIP	Comprehensive Organic Criminal Code (<i>Código Orgánico Integral Penal</i>)
CONADIS	National Council for Disability Equality (<i>Consejo Nacional para la Igualdad de Discapacidades</i>)
CONASEP	National Confederation of Ecuadorian Public Servants (<i>Confederación Nacional de Servidores Públicos del Ecuador</i>)
CONFENIAE	Confederation of Indigenous Nationalities of the Ecuadorian Amazon Region (<i>Confederación de Nacionalidades Indígenas de la Amazonía Ecuatoriana</i>)
CONGOPE	Consortium of Provincial Autonomous Governments of Ecuador (<i>Consortio de Gobiernos Autónomos Provinciales del Ecuador</i>)
CPPCS	Council for Citizen Participation and Social Control (<i>Consejo de Participación Ciudadana y Control Social</i>)
CPTPP	Comprehensive and Progressive Agreement for Trans-Pacific Partnership
CSO	Civil Society Organisation
CSR	Corporate Social Responsibility
DECOIN	Defence and Ecological Conservation of Intag (<i>Defensa y Conservación Ecológica de Intag</i>)
DP	Office of the Public Defender (<i>Defensoría Pública</i>)
DPE	Office of the Ombudsman (<i>Defensoría del Pueblo del Ecuador</i>)
ECA	Export Credit Agency
ECUARUNARI	Confederation of Peoples of Kichwa Nationality of Ecuador (<i>Confederación de Pueblos de la Nacionalidad Kichwa del Ecuador</i>)
EFTA	European Free Trade Agreement
EIA	Environmental Impact Assessment
EITI	Extractive Industries Transparency Initiative
EMCO EP	State-Owned Enterprises Coordinating Company (<i>Empresa Coordinadora de Empresas Públicas</i>)
EMCO EP Guidelines	Principles of Corporate Governance and Ethics Code for State-Owned Enterprises created by Executive Decree (<i>Principios de Buen Gobierno Corporativo y Código de Ética en las Empresas Públicas Constituidas por la Función Ejecutiva</i>)
ENAMI EP	National Mining Company (<i>Empresa Nacional de Minería</i>)
ENB	National Biodiversity Strategy of Ecuador (<i>Estrategia Nacional de Biodiversidad del Ecuador</i>)
ENEMDU	Survey of Employment, Unemployment and Underemployment (<i>Encuesta Nacional de Empleo, Desempleo y Subempleo</i>)
ENTI	National Survey on Child Labour (<i>Encuesta Nacional de Trabajo Infantil</i>)
EP FLOPEC	Ecuadorian Tanker Fleet (<i>Flota Petrolera Ecuatoriana</i>)
Escazú Agreement	Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean
ESR	Socially Responsible Company (<i>Empresa Socialmente Responsable</i>)
EU	European Union
FAO	Food and Agriculture Organization of the United Nations

FCUNAE	Federation of Communes/Union of Natives of the Ecuadorian Amazon Region (<i>Federación de Comunas Unión de Nativos de la Amazonía Ecuatoriana</i>)
FDI	Foreign Direct Investment
FELTRAPI	Federation of Free Workers of Pichincha (<i>Federación de trabajadores libres de Pichincha</i>)
FESITRAE	Independent Union Federation of Ecuadorian Workers (<i>Federación Sindical Independiente de Trabajadores del Ecuador</i>)
FGE	Attorney-General's Office (<i>Fiscalía General del Estado</i>)
FPIC	Free, Prior and Informed consent
FRECOOS	Central-Eastern Regional Federation of Trade Union Organisations (<i>Federación Regional Centro Oriente de Organizaciones Sindicales</i>)
FTA	Free Trade Agreement
FUT	Workers United Front (<i>Frente Unitario de Trabajadores</i>)
GATT	General Agreement on Tariffs and Trade
GDP	Gross Domestic Product
GHG	Greenhouse Gas
GRI	Global Reporting Initiative
GVC	Global Value Chain
HDI	Human Development Index
Hidrotambo	Compañía Hidroeléctrica Hidrotambo
ICC Ecuador	International Chamber of Commerce – Ecuador
ICSID	International Centre for Settlement of Investment Disputes
ICSID Convention	Convention on the Settlement of Investment Disputes between States and Nationals of Other States
IDB	Inter-American Development Bank
IFC	International Finance Corporation
ILO	International Labour Organization
ILO Convention No. 169	ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169)
ILO MNE Declaration	Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy
INABIO	National Institute of Biodiversity (<i>Instituto Nacional de Biodiversidad</i>)
INAMHI	National Institute of Meteorology and Hydrology (<i>Instituto Nacional de Meteorología e Hidrología</i>)
INEC	National Institute of Statistics and Census (<i>Instituto Nacional de Estadística y Censos</i>)
IPA	Investment Promotion Agency
ISDS	Investor-State Dispute Settlement
ISO	International Organization for Standardization
ITUC	International Trade Union Confederation
LGBTIQ+	Lesbian, Gay, Bisexual, Transgender, Intersex and Queer+
LGRA	General Administrative Responsibility Law (<i>Ley General de Responsabilidad Administrativa</i>)
LOAH	Organic Humanitarian Support Law (<i>Ley Orgánica de Apoyo Humanitario</i>)
LOEP	Organic Law on State-Owned Enterprises (<i>Ley Orgánica de Empresas Públicas</i>)
LOSNCP	Organic Law on the National Public Procurement System (<i>Ley Orgánica del Sistema Nacional de Contratación Pública</i>)
LOSPT	Organic Law on Tax Simplification and Progressivity (<i>Ley Orgánica de Simplificación y Progresividad Tributaria</i>)
MAATE	Ministry of Environment, Water and Ecological Transition (<i>Ministerio del Ambiente, Agua y Transición Ecológica</i>)
MAG	Ministry of Agriculture and Livestock (<i>Ministerio de Agricultura y Ganadería</i>)
MAPS	Methodology for Assessing Procurement Systems
MDT	Ministry of Labour (<i>Ministerio del Trabajo</i>)
MEF	Ministry of Economy and Finance (<i>Ministerio de Economía y Finanzas</i>)
MEM	Ministry of Energy and Mines (<i>Ministerio de Energía y Minas</i>) (former Ministry of Energy and Non-renewable Natural Resources (<i>Ministerio de Energía y Recursos Naturales No Renovables</i>))

MESSE	Ecuadorian Movement for a Social and Solidarity-Based Economy (<i>Movimiento de Economía Social y Solidaria del Ecuador</i>)
MIDUVI	Ministry of Urban Development and Housing (<i>Ministerio de Desarrollo Urbano y Vivienda</i>)
MIES	Ministry of Economic and Social Inclusion (<i>Ministerio de Inclusión Económica y Social</i>)
MINTUR	Ministry of Tourism (<i>Ministerio de Turismo</i>)
MNE	Multinational Enterprise
MPCEIP	Ministry of Production, Foreign Trade, Investments and Fishing (<i>Ministerio de Producción, Comercio Exterior, Inversiones y Pesca del Ecuador</i>)
MREMH	Ministry of Foreign Affairs and Human Mobility (<i>Ministerio de Relaciones Exteriores y Movilidad Humana</i>)
MSMEs	Micro, Small and Medium-sized Enterprises
MTA	Multi-Party Trade Agreement
MTOP	Ministry of Transport and Public Works (<i>Ministerio de Transporte y Obras Públicas</i>)
NA	National Assembly
NAP	National Action Plan on Business and Human Rights
NCP	National Contact Point for Responsible Business Conduct
NDC	Nationally Determined Contribution
NGO	Non-Governmental Organisation
OECD	Organisation for Economic Cooperation and Development
OECD Anti-Bribery Convention	OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions
OECD Due Diligence Guidance	OECD Due Diligence Guidance for Responsible Business Conduct OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector OECD-FAO Guidance for Responsible Agricultural Supply Chains OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector
OECD Due Diligence Guidance for RBC	OECD Due Diligence Guidance for Responsible Business Conduct
OECD Sector-Specific Due Diligence Guidance	OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector OECD-FAO Guidance for Responsible Agricultural Supply Chains OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector
OECD MNE Guidelines	OECD Guidelines for Multinational Enterprises
OEIGWG	Open-Ended Intergovernmental Working Group
OTLA	Office of Trade and Labour Affairs (Department of Labour of the United States)
Pacto Global Red Ecuador	Global Compact Network in Ecuador
PECC	Ecuador Zero Carbon Programme (<i>Programa Ecuador Carbono Cero</i>)
PETI	Project for the Eradication of Child Labour (<i>Proyecto de Erradicación del Trabajo Infantil</i>)
Petroecuador EP	State-Owned Hydrocarbons Enterprise of Ecuador (<i>Empresa Pública de Hidrocarburos del Ecuador</i>)
PFI	OECD Policy Framework for Investment
PGE	Office of the Prosecutor General (<i>Procuraduría General del Estado</i>)
PND	National Development Plan (<i>Plan Nacional de Desarrollo</i>)
PRAS	Social and Environmental Remediation Programme (<i>Programa de Reparación Ambiental y Social</i>)
RAAM	Environmental Regulation for Mining Activities in Ecuador (<i>Reglamento Ambiental de Actividades Mineras en el Ecuador</i>)
RAOHE	Environmental Regulation for Hydrocarbon Operations in Ecuador (<i>Reglamento Ambiental de Operaciones Hidrocarburíferas en el Ecuador</i>)
RBC	Responsible Business Conduct
RBCLAC	Responsible Business Conduct in Latin America and the Caribbean

REDETI	Ecuador Free of Child Labour Network of Businesses (<i>Red de Empresas por un Ecuador Libre de Trabajo Infantil</i>)
RET	Business Transparency Network (<i>Red Empresarial de Transparencia</i>)
RUP	Unified Registry of Suppliers (<i>Registro Único de Proveedores</i>)
SAI	Social Accountability International
SBU	Unified Basic Salary (<i>Salario Básico Unificado</i>)
SDGs	Sustainable Development Goals
SDH	Human Rights Secretariat of Ecuador (<i>Secretaría de Derechos Humanos del Ecuador</i>)
SENAGUA	National Water Secretariat of Ecuador (<i>Secretaría Nacional del Agua del Ecuador</i>)
SENESCYT	Higher Education, Science and Technology Secretariat of Ecuador (<i>Secretaría de Educación Superior, Ciencia y Tecnología del Ecuador</i>)
SERCOP	National Service of Public Procurement of Ecuador (<i>Servicio Nacional de Contratación Pública del Ecuador</i>)
SMEs	Small and Medium-sized Enterprises
SNCP	National Public Procurement System of Ecuador (<i>Sistema Nacional de Contratación Pública del Ecuador</i>)
SNP	National Planning Secretariat of Ecuador (<i>Secretaría Nacional de Planificación del Ecuador</i>)
SOCE	Official Public Procurement System of Ecuador (<i>Sistema Oficial de Contratación Pública del Ecuador</i>)
SOE	State-Owned Enterprise
SOE Guidelines	OECD Guidelines on Corporate Governance of State-Owned Enterprises
SPAVT	National System for the Protection and Assistance of Victims and Witnesses in Criminal Proceedings (<i>Sistema Nacional de Protección y Asistencia a Víctimas, Testigos y Otros Participantes en el Proceso Penal del Ecuador</i>)
SPPA	Anti-Corruption Policy Secretariat of Ecuador (<i>Secretaría de Política Pública Anticorrupción del Ecuador</i>)
SRI	Internal Revenue Service of Ecuador (<i>Servicio de Rentas Internas del Ecuador</i>)
SSDS	State-to-State Dispute Settlement
SUIA	Unified System of Environmental Information of Ecuador (<i>Sistema Único de Información Ambiental del Ecuador</i>)
SUPERCIAS	Superintendency of Companies, Securities and Insurance of Ecuador (<i>Superintendencia de Compañías, Valores y Seguros del Ecuador</i>)
TPA	Trade Promotion Agreement
TPP	Trans-Pacific Partnership
TSD Chapter	Chapter IX on Trade and Sustainable Development of the FTA between Colombia-Ecuador-Perú and the EU
UAFE	Financial Analysis Unit (<i>Unidad de Análisis Financiero</i>)
UGTE	General Union of Ecuadorian Workers (<i>Unión General de Trabajadores del Ecuador</i>)
UN	United Nations
UN ECLAC	United Nations Economic Commission for Latin America and the Caribbean
UN Global Compact	United Nations Global Compact
UNCAC	United Nations Convention Against Corruption
UNCTAD	United Nations Conference on Trade and Development
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNEP	United Nations Environment Programme
UNFCCC	United Nations Framework Convention on Climate Change
UNGPs	United Nations Guiding Principles on Business and Human Rights
UNOHCHR	Office of the United Nations High Commissioner for Human Rights
UNWG	United Nations Working Group on Business and Human Rights
UPR	Universal Periodic Review
US	United States
USD	United States dollar
VAT	Value-Added Tax
WEF	World Economic Forum

Executive summary

Ecuador is an upper middle-income country that has faced several socioeconomic transformations over the past two decades. Although the Government has embarked on a process of economic diversification based on openness to international trade and foreign investment, Ecuador's growth and development remains highly dependent on the export of oil, minerals, and agricultural products.

This makes Responsible Business Conduct (RBC) fundamental for the country. RBC is the expectation that companies contribute positively to sustainable development and identify, prevent, and mitigate the actual or potential adverse impacts that their activities, supply chains or business relationships may cause, or to which they can contribute, on people, the planet or society. The predominance of the extractive and agricultural sectors in Ecuador increases the risks of adverse impacts related to business activities, particularly violations of human and labour rights, and environmental pollution. In fact, these risks have manifested themselves on several occasions in recent years in the country.

This context has led Ecuador to take measures to promote responsible business practices. At the national level, in 2020, Ecuador took a firm step towards building an enabling environment for RBC by initiating a process to develop a National Action Plan on Business and Human Rights (NAP). This process provides an opportunity to identify progress already made, as well as challenges, in several areas relevant to RBC. It also allows developing a general government policy in the long term and aligning more permanently the policies and initiatives of the different government institutions that are relevant to the RBC, reinforcing inter-institutional coordination between them. It also represents a unique opportunity to promote RBC principles and standards with a wide range of stakeholders who are mostly unaware of the concept, as evidenced by the fact that private sector and civil society efforts in recent years have been primarily focused on corporate social responsibility. In addition, at the international level, Ecuador has assumed since 2014 a key role in the negotiations for the elaboration of an internationally legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises carried out in the framework of the United Nations Human Rights Council.

Despite these initiatives, the adoption of responsible business practices in Ecuador faces difficulties linked to the socio-economic characteristics of the country. The impact of the COVID-19 pandemic on economic development, the high rate of informality, and levels of corruption are factors that impact the business environment. In addition, while Ecuador has sought to develop robust legal frameworks in the areas covered by the OECD Guidelines for Multinational Enterprises (the OECD MNE Guidelines), there are still areas in which regulation is pending and difficulties in ensuring compliance with, and the effective implementation of, existing frameworks.

Ecuador has a solid legal framework designed to protect human rights. The ratification of the 27 international human rights instruments of the United Nations and the inclusion of a title dedicated to the protection of human rights in the Constitution demonstrates Ecuador's commitment in that regard. However, the Ecuadorian legislation still has gaps in terms of protection of the right to free, prior and informed consent of indigenous, Afro-Ecuadorian and Montubio peoples and nationalities, as well as of the rights of human rights and nature defenders, which are especially exposed to risks of adverse impacts

linked to business activities. In addition, effective access to remedy in cases of adverse human rights impacts related to business activities could be improved.

Labour rights in Ecuador are also governed by a broad regulatory framework, combined with the ratification of most international conventions on the subject, including eight of the ten fundamental conventions of the International Labour Organization. Despite this, the protection of certain labour rights, such as freedom of association, remains not fully in line with international standards. In addition, there are significant challenges in compliance with, and enforcement of, labour regulations, especially in the informal sector, which is one of the most important in the region. Child labour and forced labour remain current problems in the country. Several policy proposals seek to address this situation, focusing on the promotion of formalization, the eradication of child labour, and the fight against labour discrimination. However, previous reforms have shown that, for Ecuador's commitment to remedy this situation to materialize, efforts must also focus on strengthening its capacity to effectively implement these initiatives.

Likewise, environmental protection in Ecuador is the subject of an advanced legal framework. With the promulgation of the 2008 Constitution, Ecuador became the first country in the world to recognize nature as a subject of constitutional rights. Any damage to the environment entails the obligation to fully restore the ecosystems and compensate affected people and communities. In the same logic, according to the Constitution, economic actors must assume responsibility for preventing any environmental impact, mitigating and repairing the damage they have caused, and maintaining a permanent environmental control system. Nevertheless, business activities, particularly in the extractive and agricultural sectors, continue to cause severe adverse impacts on the environment and local communities. The cases linked to these impacts also highlight the need to improve access to remedy in environmental matters.

In addition, Ecuador has carried out several legal and institutional reforms to combat corruption in recent years. The recent creation of the Secretariat for Anti-Corruption Policy and the publication of the National Anti-Corruption Strategy are the most recent advances in this regard. Furthermore, Ecuador is taking steps to move towards accession to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. However, continuous changes in anti-corruption strategy in recent years have prevented efforts to create an efficient regulatory and policy framework from succeeding. Moreover, in order to be implemented in a coherent and structured manner, such efforts would need to be accompanied by effective inter-institutional coordination.

The ability to create an enabling environment for RBC in Ecuador will depend on how the country responds to these challenges in the coming years, regulating to address outstanding issues and taking steps to effectively enforce existing legislation and policies in the areas covered by the OECD MNE Guidelines. It will also be necessary for Ecuador to resort to other policy areas to leverage RBC and incentivise companies to respect the principles and standards in the field, either by becoming an example to follow when acting as an economic actor or in commercial activities, or by including considerations relevant to RBC in policy areas that may shape business conduct.

Ecuador can influence business conduct and provide incentives for it to be responsible through its dealings with companies as a buyer of goods, services, or works. In recent years, the Government has made efforts to promote more responsible public procurement, for example by increasing the transparency of the public procurement system. The recent reform of the General Regulation to the Organic Law of the National Public Procurement System (*Reglamento General a la Ley Orgánica del Sistema Nacional de Contratación Pública*) also seeks to integrate sustainability criteria in the evaluation of bids. However, for considerations relating to RBC to be integrated into procurement policies and processes in a structured and consolidated manner, Ecuador would need to develop a specific strategy in this regard.

The Government can also be an example of responsible business conduct through its State-Owned Enterprises (SOEs). This is of particular importance in Ecuador, as several of Ecuador's SOEs operate in sectors that present risks of corruption and adverse impacts on human rights and the environment. In recent years, Ecuador has taken steps to promote the adoption of responsible business practices by its

SOEs. The Organic Law of SOEs (*Ley Orgánica de Empresas Públicas*) and the recent reform of the SOE management system have created a favourable context to promote the observance by Ecuadorian SOEs of RBC principles and standards. However, in order to move forward, it would be necessary that the instruments and policies developed by SOEs do not cover only some areas of RBC and require that due diligence processes be conducted.

Trade and investment policies also constitute a key conduit for promoting and incentivising the adoption of responsible business practices, even more so as Ecuador seeks to strengthen the opening of its economy to international trade and foreign investment. However, to date, its promotion policies, both for trade and investment, as well as its trade and investment agreements, do not encourage Ecuadorian exporters and foreign investors to observe RBC principles and standards in a consistent and systematic manner. New trade and investment policies that the Government is designing represent an opportunity in this regard.

The above reveals that, although the development of an enabling environment for RBC in Ecuador is still incipient, steps have been taken in the right direction. Redoubling efforts to move forward in this regard, with the effective participation and cooperation of businesses and other stakeholders, is particularly important for a country such as Ecuador. On the one hand, it is key to addressing the situation created by the cases of adverse impacts linked to business activities that have occurred in recent years and preventing such cases from occurring in the future. In turn, this could help lessen the tensions that have often been created between local communities and businesses around impacts of business activities. On the other hand, the creation of an enabling environment for RBC is fundamental to the current growth and development strategy of Ecuador, which seeks to diversify and strengthen the opening of its economy to trade and foreign investment. Nowadays, more and more companies and investors are paying attention to RBC issues, and it is becoming increasingly important for a country to be perceived as a safe and reliable place to trade or source from, or invest in, in order to integrate successfully into global value chains. In addition, a growing number of countries have adopted or are developing legislation that make the observance of RBC principles and standards mandatory in global supply chains. For this reason, it is necessary to leverage RBC and incentivise companies operating in or from Ecuador to observe these principles and standards in order to increase their opportunities to do business with multinational companies and strengthen their access to export markets. In the same way, regulating and enforcing in favour of RBC is essential so that companies that want to invest in Ecuador perceive that they can do so without major risks. Thus, although Ecuador has not yet adhered to the OECD MNE Guidelines, promoting the use of the OECD instruments in the field is of particular importance for the country, especially considering that the vast majority of its trade and investment partners have adhered to these instruments and expect that their principles and standards of RBC be observed.

The first steps taken by Ecuador to develop an enabling environment for RBC are encouraging. The fact that Ecuador is the first non-Adherent country to the OECD MNE Guidelines to undergo an RBC Policy Review, as well as the full collaboration of the Government throughout the elaboration of said Review – which involved exchanges with more than thirty government entities – reflect the importance and consideration that the country attaches to the RBC agenda. The preparation of this Review also represents a concrete step towards Ecuador's possible adherence to the OECD MNE Guidelines. Through specific and concrete analysis and recommendations in key policy areas, the Review seeks to support the Ecuadorian Government in the development of a policy and regulatory environment that drive, support, and promote responsible business practices; thereby fostering its engagement around the OECD's RBC instruments. The Review, and its elaboration process, constitute as well key elements both for the development process and for the content of the future NAP of Ecuador.

Introduction and overview

Since, in 2011, the OECD updated the Guidelines for Multinational Enterprises (OECD MNE Guidelines), and the United Nations Human Rights Council adopted the Guiding Principles on Business and Human Rights (UNGPs), expectations that businesses should produce and supply goods and services responsibly have grown. The concept of “Responsible Business Conduct” (RBC) – which entails that businesses contribute positively to sustainable development whilst preventing and mitigating the adverse impacts that their activities, supply chains, and/or business relationships may cause or contribute to on people, planet and society – has gained increased attention. In addition, since 2015, businesses are expected to play a key role in the implementation of the 2030 Agenda for Sustainable Development (the 2030 Agenda) and to contribute to solving sustainable development challenges, while respecting labour rights and environmental and health standards.¹ RBC and the 2030 Agenda are closely intertwined.² Not only does RBC cut across several of the Sustainable Development Goals (SDGs) defined in the Agenda, it is also envisaged as one of the means of implementation, RBC being one of the most important business contributions to the SDGs.³

There is thus nowadays a wide recognition that businesses – regardless of their size, sector, operational context, ownership and structure – should contribute to sustainable development and observe existing international RBC principles and standards, such as the OECD MNE Guidelines. The OECD MNE Guidelines are the most comprehensive set of recommendations addressed by governments to businesses on a wide array of areas of potential business responsibility, such as the respect for human rights, the promotion of labour rights, the protection of the environment or the fight against corruption. They notably encourage companies to conduct due diligence to identify, address and mitigate the risks of adverse impacts that may be associated with their operations, supply chains and/or business relationships.

Additionally, responsible business is increasingly recognised as being good business leading to value creation. This has been further demonstrated in the context of the crisis triggered by the Coronavirus (COVID-19) pandemic. Businesses observing RBC principles and standards and implementing due diligence have generally been better equipped to face the disruptions and challenges brought about by the pandemic and to recover due to enhanced resilience and competitiveness and a focus on long-term value.

These growing expectations that businesses act responsibly have been accompanied by an increased acknowledgement that governments have a role to play in promoting and enabling RBC. Governments that have adhered to the OECD MNE Guidelines have the legal obligation to establish a National Contact Point for RBC (NCP) to promote and disseminate their recommendations and act as a non-judicial grievance mechanism in cases of alleged non-observance by businesses of such recommendations. However, beyond the establishment of NCPs, all governments – including those that have not adhered to the Guidelines – have an essential part to play in creating an enabling policy and regulatory environment to drive, support and promote responsible business practices. In practice, such an environment can be constructed through a combination of policies that can be grouped into two main policy orientations, i.e.:

- *Regulating and enforcing in support of RBC*, which entails that governments not only embed in their domestic legal and regulatory frameworks the legislations and regulations necessary to

govern business conduct in the areas covered by the OECD MNE Guidelines, but also deploy the resources and capacities required to implement them; and

- *Leveraging and incentivising RBC*, which implies that governments resort to other relevant policy areas to facilitate and encourage RBC, either by leading by example in their role as economic actors and/or in their commercial activities, or through economic policies that can shape business conduct.

Developing an enabling policy and regulatory environment for RBC is becoming increasingly important to thrive in the global economy and promote economic, social and environmental progress. Such an environment is key for a country to be perceived as a reliable and safe place to source from, trade with, and/or invest in. This is all the more true in a world in which the COVID-19 crisis has severely disrupted international trade and investment and global value chains (GVCs), and where major trade and investment players are paying more and more attention to RBC issues.

Several OECD legal instruments acknowledge the role that governments play in relation to RBC. For example, the Chapter on “Policies for enabling RBC” (Chapter 7) of the OECD Policy Framework for Investment (PFI)⁴ recognises that governments have a role in providing an enabling environment for RBC and sets forth recommendations in this regard (see Section 1.1.3).⁵ Additionally, various other OECD instruments and guidance documents on RBC and areas related to RBC contain policy guidance on government policies and policy coherence to promote and enable RBC.

The OECD is therefore uniquely positioned to support governments in their paths towards the development of enabling policy and regulatory environments for RBC through coherent policies. It is in this context that the RBC Centre of the OECD takes part in the “Responsible Business Conduct in Latin America and the Caribbean” Project (RBCLAC Project), together with the International Labour Organization (ILO) and the United Nations Office of the High Commissioner for Human Rights (UNOHCHR). This Project, designed and funded by the European Union (EU), seeks to promote smart, sustainable and inclusive growth in the region by supporting responsible business practices in line with the international RBC instruments of the three implementing organisations.⁶ The activities of the OECD under the Project are structured around three mutually reinforcing pillars, respectively aimed at: (i) reinforcing government policies for RBC, (ii) helping businesses to conduct due diligence in priority sectors, and (iii) facilitating access to remedy through the strengthening of NCPs.

The present RBC Policy Review comes within the scope of the first pillar on government policies for RBC. This Review aims to support the Government of Ecuador in building an enabling policy and regulatory environment for RBC through coherent policies, even if the country has not yet adhered to the OECD MNE Guidelines. The ultimate goal is that, in the aftermath of the COVID-19 crisis, such an environment contributes to enhancing the country’s economic, social and environmental outcomes, by reinforcing its integration in the global economy through strengthened trade and investment relationships.

For this purpose, the Review analyses relevant policies existing in Ecuador in selected areas covered by the OECD MNE Guidelines, as well as in other relevant policy areas through which the Government can lead by example on RBC and influence business conduct. On this basis, the review formulates concrete and actionable policy recommendations to help Ecuador adopt and enforce regulation in support of RBC in areas covered by the OECD MNE Guidelines and leverage and incentivise RBC through other relevant policy areas that have a bearing on business conduct.

The analysis and recommendations presented in the present RBC Policy Review can serve to inform and support the ongoing process of developing a National Action Plan on Business and Human Rights (NAP) in Ecuador. It could also contribute to the implementation of existing policies, such as the new National Development Plan (*Plan Nacional de Desarrollo*, PND), or to reforms in RBC-related fields, such as the reform of the Comprehensive Organic Criminal Code (COIP) to criminalise corruption in the private sector or the initiatives to develop policies aimed at ensuring the free, prior and informed consent (FPIC) of local communities in the context of large-scale projects or the protection of human rights defenders. As such,

the Review can also be used as a resource document by stakeholders wishing to gain a better understanding of how Ecuador could build an enabling policy and regulatory environment for RBC and the different actions that could be taken towards this objective. Finally, the analysis and recommendations contained in the Review constitute valuable inputs in the event the Government of Ecuador, after considering the possibility of adhering to the OECD MNE Guidelines, decide to take steps in this direction.

The Review was prepared by the OECD Secretariat in response to a formal request for an RBC Policy Review formulated by Ecuador's Ministry of Foreign Affairs and Human Mobility (*Ministerio de Relaciones Exteriores y Movilidad Humana*, MREMH) in October 2020. It was elaborated in cooperation with the Government of Ecuador through a process that involved, among other steps: the exchange of information on relevant legislations, regulations, policies and initiatives existing in Ecuador via an RBC Policy Questionnaire completed by several government entities; detailed desk-based research; as well as a two-week fact-finding mission organised in March 2021 virtually due to the pandemic of COVID-19. During the fact-finding mission, the OECD Secretariat met with representatives of multiple government entities, business associations, trade unions, civil society organisations (CSOs) and indigenous peoples and nationalities (see Annex A for a detailed list of the participants in the meetings). A consultation meeting was also held with representatives of EU and OECD countries in Ecuador to inform them about the review process and obtain their inputs. The draft of the Review was subsequently shared with the government entities that participated in the fact-finding mission and with some other institutions, which formulated comments.⁷ The Review was also shared with stakeholders. In November 2022, the draft was finally submitted for comments to the OECD Working Party on Responsible Business Conduct through written procedure.

The RBC Policy Review of Ecuador is structured as follows: after a brief explanation of the concept of RBC and an overview of the main OECD instruments and tools in the field (**Section 1**), it describes the main opportunities and challenges for RBC in Ecuador in terms of socio-economic context, general legal and policy framework, RBC awareness, and institutional setting (**Section 2**). The Review then analyses the legislations, regulations, policies and initiatives existing in Ecuador in selected areas of the OECD MNE Guidelines (**Section 3**), as well in other relevant policy areas through which the Government can leverage and incentivise RBC, and formulates recommendations to develop and strengthen these different elements (**Section 4**). The Review concludes with an overall assessment of Ecuador's government policies pertaining to RBC and summarises the recommendations addressed to the Ecuadorian Government to build an enabling policy and regulatory environment for RBC in the country (**Section 5**).

1 What is Responsible Business Conduct?

RBC has a twofold objective. On the one hand, it entails that all enterprises – regardless of their legal status, size, ownership structure or sector – make a positive contribution to economic, environmental and social progress in the countries in which they operate with a view to promoting sustainable development. On the other, it implies that enterprises avoid and address adverse impacts on people, the planet and society caused by their activities and/or prevent and mitigate adverse impacts directly linked to their operations, products or services through supply chains and/or business relationships. As these impacts cover a range of substantive areas, the scope of RBC is broad and cross-cutting. Risk-based due diligence is central to identifying, preventing and mitigating actual and potential adverse impacts, and is thus a key element of RBC (OECD, 2015^[1]).

RBC is increasingly relevant among the priority actions for the global agenda. It is a powerful tool to deal with the downsides of globalisation and foster the positive contribution of businesses to economic and sustainability outcomes. It can help attract responsible investment, facilitate insertion in GVCs, minimise risks for businesses and ensure the respect of stakeholder rights. It can also contribute to making progress towards sustainable development by maximising the private sector's contribution to the SDGs and mobilising the resources necessary for financing the implementation of the 2030 Agenda (OECD, 2016^[2]).

Box 1.1. Responsible Business Conduct, Corporate Social Responsibility, and Business and Human Rights: lost in translation?

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

In recent years, CSR has increasingly been used alongside RBC and Business and Human Rights, with some using the terms interchangeably (e.g. the EU). How do these concepts relate to each other?

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

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

Source: (ILO/OECD/UNOHCHR, 2019^[3]).

1.1. OECD instruments and tools on RBC

The OECD has developed an important number of instruments and tools aimed at fostering the adoption and implementation of RBC practices by businesses but also of RBC policies by governments.

1.1.1. *The OECD Guidelines for Multinational Enterprises and the National Contact Points*

The main instrument aimed at promoting the adoption of RBC practices by businesses are the OECD MNE Guidelines, which form part of the OECD Declaration on International Investment and Multinational Enterprises. The OECD MNE Guidelines are recommendations from governments to businesses on how to act responsibly⁸ that cover all areas of potential business responsibility, including human rights, employment and industrial relations, environment, information disclosure, bribery and corruption, consumer interests, science and technology, competition, and taxation. The OECD MNE Guidelines were adopted in 1976 and last updated in 2011 to include a chapter on human rights aligned with the UNGPs, following the example of the Chapter on Employment and Industrial Relations, which is aligned with the ILO's labour standards.

To date, 51 countries (of which 38 OECD Members and 13 additional economies) – including Mexico, Chile, Colombia, Peru, Argentina, Brazil, Costa Rica and Uruguay⁹ – have adhered to the OECD MNE Guidelines, thereby committing to implementing them and encouraging their use. Ecuador has not yet adhered to the OECD MNE Guidelines but, according to information provided by the Government during the preparation of the Review, it is considering the possibility to request adherence since early 2022.

Adherents to the OECD MNE Guidelines have the legal obligation to set up a NCP to further their implementation. NCPs have two main functions. On the one hand, they promote the OECD MNE Guidelines and handle enquiries to make them known among relevant stakeholders and across government entities. On the other hand, they serve as a grievance mechanism to resolve “specific instances”, that is cases relating to the non-observance of the recommendations contained in the OECD MNE Guidelines.

Up to now, the 51 existing NCPs have dealt with more than 600 specific instances arising in over 100 countries, thereby playing a critical role in ensuring that the OECD MNE Guidelines are implemented globally.

1.1.2. *The OECD Due Diligence Guidance*

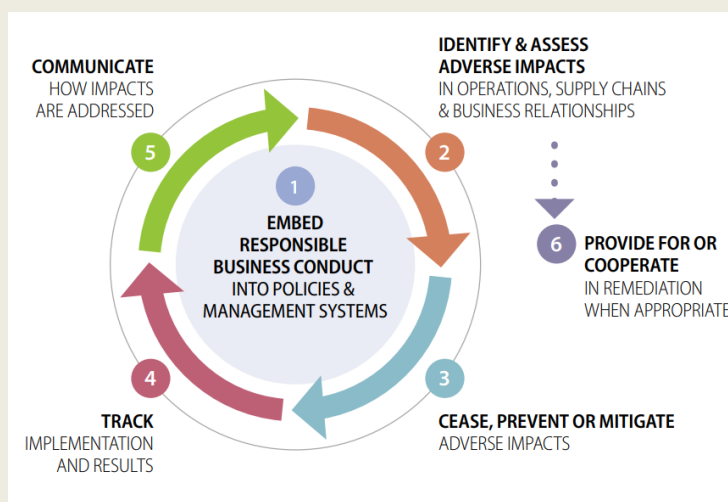
The OECD MNE Guidelines embed the expectation that enterprises carry out due diligence to identify, prevent and mitigate real and potential adverse impacts on people, the planet and society, and to account for how those impacts are addressed. Based on this expectation, the OECD has developed a range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

In 2018, the OECD issued a general Due Diligence Guidance for RBC (the OECD Due Diligence Guidance for RBC) to promote a common understanding among governments and stakeholders of due diligence for RBC. The Guidance defines a six-step process for due diligence (see Box 1.2), which is relevant for all types of enterprises operating in all countries and sectors of the economy (OECD, 2018^[4]). As such, it also serves to implement the due diligence recommendations contained in the UNGPs and the ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy (the ILO MNE Declaration).

Box 1.2. The due diligence process and supporting measures

Taking into account the fact that due diligence should be commensurate with risk and appropriate to a specific enterprise's circumstances and context, the OECD Due Diligence Guidance for RBC establishes a six-step process to conduct due diligence that can be used by any enterprise irrespective of the location or sector of its operations.

This process consists in embedding RBC into the enterprise's policies and management systems (step 1) and undertaking due diligence by identifying actual or potential adverse impacts on RBC issues (step 2), ceasing, preventing or mitigating such impacts (step 3), tracking implementation and results (step 4), communicating how impacts are addressed (step 5), and enabling remediation when appropriate (step 6).



Source: (OECD, 2018^[5]).

In addition to the general OECD Due Diligence Guidance for RBC, the OECD has developed sector-specific due diligence guidance for the minerals, extractive, agriculture, and garment and footwear sectors (OECD Sector-specific Due Diligence Guidance). This Guidance helps enterprises identify and address risks to people, the planet, and society that can be associated with business operations, products or services in these specific sectors (see Box 1.3).

Box 1.3. OECD sector-specific Due Diligence Guidance

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

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

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

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

Sources: (OECD, 2019^[6]) (2018^[7]) (2017^[8]) (2017^[9]) (2016^[10]) (OECD/FAO, 2016^[11]).

1.1.3. The Policy Framework for Investment

Besides fostering the adoption and implementation of RBC practices by businesses, the OECD also encourages the adoption and implementation of enabling policy and regulatory environments for RBC by governments through the PFI.¹⁰ The PFI is designed to help governments maximise the development impact of investment (OECD, 2015^[12]) and contains a chapter dedicated to policies for enabling RBC (Chapter 7). This Chapter has become a reference for designing and implementing strong RBC policy frameworks and coordinating government efforts on RBC (see Box 1.4).

Box 1.4. Extracts from Chapter 7 of the PFI – Policies for enabling RBC

Governments can enable RBC in several ways:

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

Source: (OECD, 2015^[11]).

1.2. Alignment with other international instruments

The OECD instruments and tools on RBC are aligned and complement the other international instruments on responsible business practices developed by the ILO and the United Nations (UN) (e.g. the ILO MNE Declaration and the UNGPs) and the three complement one another. Jointly, the OECD MNE Guidelines, the ILO MNE Declaration, and the UNGPs set the global expectations for RBC and have become a key reference for responsible business (ILO/OECD/UNOHCHR, 2019^[3]).

The three instruments outline how enterprises can act responsibly. They all establish that any enterprise (regardless of its size, sector, operational context, ownership and structure) should make a positive contribution to the economic, environmental and social progress of the countries in which it operates, while

avoiding and addressing adverse impacts on human and labour rights, the environment and society. This covers not only impacts that the enterprise may cause or contribute to through its own activities but also those impacts directly linked to its operations, products or services through its supply chains and/or business relationships. According to these instruments, enterprises should undertake due diligence to identify, prevent and mitigate adverse impacts and account for how those impacts are addressed. In addition, where enterprises identify that they have caused or contributed to adverse impacts, they are expected by the three instruments to provide access to remedy through legitimate processes (ILO/OECD/UNOHCHR, 2019^[3]).

The OECD, the ILO and the UN each bring their own added value to the implementation of the principles and standards contained in the OECD MNE Guidelines, the ILO MNE Declaration and the UNGPs based on their mandate and expertise: the OECD with its broad approach to RBC and the links to economic policies, the ILO with its tripartite structure and authority on international labour standards, and the UNOHCHR and the UN Working Group on Business and Human Rights (UNWG) with their expertise on Business and Human Rights and UN human rights mandates (ILO/OECD/UNOHCHR, 2019^[3]).

2 Context: opportunities and challenges for Responsible Business Conduct in Ecuador

The way in which RBC can be promoted and enabled largely depends on a country's specific context. The socio-economic background, the existing policies pertaining to RBC, the degree of awareness of businesses and other stakeholders on RBC, can constitute opportunities and/or challenges for the adoption and implementation of responsible business practices. Analysing them is fundamental to a better understanding of the drivers and hindrances that a national context may present for the construction of an enabling environment for RBC.

2.1. Socio-economic background

RBC is closely intertwined with the economy and society. The position of a country in the world economy, its openness to trade and investment and integration in GVCs, its main economic sectors and business fabric, but also its labour market characteristics and informality rate, its level of inequalities and poverty, and other structural vulnerabilities, are all underlying factors that can underpin RBC or hinder it. Therefore, understanding the salient features of Ecuador's socio-economic context is key to assess the opportunities and challenges to promote and enable responsible business practices in the country, as well as to comprehend the importance of doing it through adequate government policies.

Ecuador is the fourth smallest country in terms of territory and the most densely populated one in South America. It has a population of around 17 million people, of which 36% reside in the rural areas, a figure well above the Latin American and Caribbean (LAC) average of 20% (OECD/CAF, 2019, p. 364_[13]). It is an upper-middle income country with an economy highly dependent on exports of oil and agricultural products (IFAD, 2021_[14]). Ecuador experienced a long period of economic growth between 2000 and 2014, during which Gross Domestic Product (GDP) increased fourfold (by an average of 4.5% per year in this period). High oil prices (with sales of oil accounting for one third of the country's exports) and high state expenditure were the key drivers behind this development. Growth halted in 2015 due to the global fall in oil prices, the concomitant reduction in public expenditure and the appreciation of the United States dollar (USD) (OECD/CAF, 2019, p. 363_[13]). Since then, Ecuador's economic growth has recovered slowly, with very low growth in 2017 and 2018 (2.4% and 1.3%, respectively), and an almost zero growth rate in 2019. GDP fell by 7.8% due to the impact of the COVID-19 crisis in 2020, increased by 4.2% in 2021 and is forecast to grow by 2.9% in 2022 (IMF, n.d._[15]).

In 2020, 61% of Ecuador's GDP came from the services sector, 35% from the industrial sector and 10% from agriculture (United Nations, 2020_[16]). The Ecuadorian export sector accounts for 23% of GDP, which means that export trends are relevant to economic performance as a whole. Ecuador's exports have traditionally been made up of three types of products: oil, minerals and agricultural products (World Bank, 2019_[17]). Oil is Ecuador's principal export product, accounting for 32% of total exports in 2021 according

to data from Ecuador's Central Bank (Government of Ecuador, 2022^[18]). However, in recent years, because of the COVID-19 pandemic and the high volatility of international prices, in addition to the challenges facing the oil sector, some agricultural products, such as bananas and prawns, have become major export products for Ecuador, accounting for more than 56% of commodities exported (Government of Ecuador, 2022^[18]; ECLAC, 2021^[19]). The principal destinations of Ecuadorian exports are the United States of America (USA) (which in 2021 accounted for 24% of total exports), China (15%), Panama (15%), Chile (4%) and Russia (4%) (Government of Ecuador, 2022^[20]; ^[21]).¹¹ The predominance of the extractive sector and the agricultural sector in the Ecuadorian economy makes Ecuador a country where the risks associated with RBC, in particular breaches of human and labour rights and environmental pollution, are high (OECD, 2020^[22]; OECD/CAF, 2019, p. 364^[13]).

In recent decades, economic development in Ecuador has primarily been based on raw materials exports. Since it specialises in products of low added value, most of which correspond to the initial stages of the supply chain, the country's integration into regional and global supply chains remains limited. Ecuador is a member of the Andean Community (*Comunidad Andina*, CAN) and the Latin American Integration Association (*Asociación Latino Americana de Integración*, ALADI) and is a party to various free trade agreements (FTAs). Ecuador has, in particular, signed trade agreements with the EU, the European Free Trade Association (EFTA), the United Kingdom and, more recently, Chile (Government of Ecuador, n.d.^[23]). Moreover, according to information provided by the Ministry of Foreign Affairs and Human Mobility (MREMH) during the preparation of the Review, it is Ecuador's intention to become a full member of the Pacific Alliance and to enter into negotiations for trade agreements with China, Costa Rica, South Korea and the Dominican Republic. However, the ratio between the country's trade and GDP and the volume of foreign direct investments (FDI) as a percentage of GDP is significantly lower than those of countries with similar levels of per capita income. As an economy, Ecuador is still regarded as relatively closed to international trade and foreign investment, although in recent years the Government has demonstrated its wish to become more open to trade and investment and has made efforts to achieve this (World Bank, 2019^[17]; *El Comercio*, 2017^[24]; Government of Ecuador, 2021^[25]; ^[26]). In 2021, FDI flows in Ecuador accounted for only 0.6% of GDP and USD 638 million, a lower percentage than that recorded for neighbouring and similar economies (World Bank, 2021^[27]; Government of Ecuador, 2022^[28]). Foreign investment in Ecuador is focused on the extractive sector. For example, in 2020, the mining sector accounted for 48% of total FDI inflows into the country (ECLAC, 2021^[29]). In 2021, the countries of origin of the largest investments were: Costa Rica (13% of total FDI), USA (13%), Switzerland (13%), China (12%), Germany (7%) and the United Kingdom (7%) (Government of Ecuador, 2022^[28]).

As well as remaining relatively closed to international trade and foreign investment, the Ecuadorian economy also faces challenges in terms of the prevalence of informality and a large number of small and medium-sized enterprises (SMEs) in the business fabric. Traditionally, Ecuador has recorded one of the highest levels of informality in LAC (OECD/CAF, 2019^[13]). According to the annual Survey of Employment, Unemployment and Underemployment (*Encuesta Nacional de Empleo, Desempleo y Subempleo*, ENEMDU) of the National Institute for Statistics and Census (*Instituto Nacional de Estadística y Censos*, INEC), in 2019-2021 informal employment accounted for almost half of all national employment (49.5%). Informality is particularly prevalent among women (52%), rural areas (69%), youth (81%), the elderly (78%), indigenous populations (78%) and workers in the bottom income quintile (81%) (INEC, 2021^[30]). Informal employment causes negative impacts on tax collection, as well as on a country's productivity and the social protection of workers, given that informally employed workers do not usually have access to social security. In Ecuador, 43% of workers do not benefit from a social insurance or safety net, this being one of the highest percentages among LAC economies (the region's average is approximately 40%) (OECD, Forthcoming, 2023^[31]). Moreover, the business fabric in Ecuador is characterised by the pre-eminence of SMEs and microenterprises, often informal, which are associated with low levels of added-value creation (OECD, Forthcoming, 2023^[31]). According to INEC's Directory of Companies and Businesses (*Directorio de Empresas y Establecimientos*), in 2020 there were 846,265 companies in Ecuador, 99.5% of which were SMEs (companies employing fewer than 250 workers), which employed

60.4% of the active population (UASB, 2021^[32]; INEC, 2021^[33]). Microenterprises (companies with fewer than 10 employees), for their part, accounted for around 91% of companies (INEC, 2021^[33]). Most of them are engaged in the services sector (45%), commerce (34%), agriculture (10%) and manufacturing (8%) (INEC, 2021^[33]). In Ecuador, microenterprises are characterised by high informal employment, since 75% have no tax registration (OECD/CAF, 2019^[13]).

Despite these challenges, the economic growth experienced by Ecuador, mainly between 2000 and 2014, has been associated with social progress. Ecuador's ranks 86th worldwide within the United Nations (UN) Human Development Index (HDI), placing it inside the group of "countries with a high HDI" (UNDP, 2019^[34]). This means that Ecuador's performance on indicators measuring quality of health, education and standard of living generally fall among the middle third of all countries. One of the most important achievements has been the significant reduction in poverty, even if the COVID-19 crisis has dented progress in this area. Although in the early 2000s, more than half of the population lived in poverty, this share has now fallen to 25% (World Bank, 2021^[35]). Economic inequality among social strata has also decreased, with the Gini index falling from 0.53 to 0.45 in 2003-2018, lower than the LAC average of 0.51 (OECD, Forthcoming, 2023^[31]). These improvements have been the result of the Government's ambitious social policies and its strong involvement in fostering development. Access to public services, such as education and health services, has significantly increased in the past two decades. Between 2010 and 2017, public health expenditure rose from 3.2% to 4.4% of GDP, with total health expenditure in Ecuador reaching levels as high as 8.3% of GDP. This is among the highest percentages in the region, just behind large spenders like Chile and Argentina (OECD, Forthcoming, 2023^[31]). Compared to spending levels in 2002, this figure represents an increase by 185%. However, the crisis caused by the COVID-19 pandemic has disturbed this situation, exacerbating pre-existing inequalities and social problems in Ecuador (see Box 2.1).

Box 2.1. The social and economic impact of the COVID-19 crisis in Ecuador

At the beginning of the pandemic, Ecuador was one of the most severely affected countries, having one of the highest death tolls in the world. As a result of the crisis caused by the COVID-19 pandemic, Ecuador's GDP dropped by 7.8%, rendering Ecuador one of the hardest hit economies in Latin America and the Caribbean. The decline in public revenues due to lower economic growth and lower oil prices, coupled with the cost of the policies developed in response to the health, social and economic impact of the pandemic, heightened existing financial needs and substantially increased public debt by 11 percentage points, reaching 64% of GDP by the end of 2020. Moreover, in that same year, exports and imports of goods dropped by 10.2% and 21.2%, respectively, compared to 2019. In October 2021, the unemployment rate increased to 4.6%, an additional percentage point since the end of 2019 according to the National Institute for Statistics and Census.

Despite the measures taken by the Government aimed at reducing the impact of the crisis, this economic situation exacerbated Ecuador's fragile social context. The World Bank estimates that COVID-19 pushed 1.5 million additional people in the country into poverty. Measured by the national poverty line, the number of residents living in poverty increased from 4.2 million (25% of the population) to 5.7 million, representing 33% of the population. One of the main causes for this is that Ecuadorians are highly dependent on the country's informal sector for income, increasing workers' vulnerability to disruptions, as they do not receive social security. Moreover, 35% of employment in Ecuador is in the sectors which were most impacted by the crisis, i.e. trade, manufacturing and tourism. In 2021, for the first time in a decade, the unified basic salary (*salario básico unificado*, SBU) was not increased in Ecuador. The COVID-19 crisis also exacerbated pre-existing social inequalities. For example, women have been disproportionately affected by the crisis. This is not only because they are overrepresented in the informal sector, but they are often in charge of taking care of children and the elderly, which has

hindered their own access to job opportunities, creating further challenges for them, beyond the decrease in their income due to the pandemic.

Sources: (IMF, n.d.^[15]) (ECLAC, 2021^[19]) (New York Times, 2021^[36]) (Government of Ecuador, 2020^[37]) (INEC, 2021^[38]).

2.2. International instruments and national policies supporting RBC

At the international level, Ecuador is a party to many international instruments in the field of human and labour rights, protection of the environment and the fight against corruption, which are relevant for the construction of an enabling policy and regulatory environment for RBC (see Table 2.1).

Table 2.1. Ecuador's adherence to, and ratification of, key international instruments

Instrument	Ratification or adherence
Core UN conventions on human rights	9/9
UN Convention against Corruption	Yes
Fundamental ILO Conventions	8/10
Paris Agreement	Yes
Escazú Agreement	Yes
Convention on Biological Diversity	Yes
Extractives Industries Transparency Initiative (EITI) Member	Yes

Although Ecuador has not yet adhered to the OECD Declaration on International Investment and Multinational Enterprises that contains the OECD MNE Guidelines, according to information provided by the Government during the preparation of the Review, since early 2022 it is considering the possibility of requesting adherence to the OECD MNE Guidelines. A decision to do so would not only be aligned with, but would also support, the initiatives taken by the Government in recent years to promote responsible business practices, and in particular the respect by businesses of human rights (see Box 2.2).

Box 2.2. Ecuador's leading role in the development of a legally binding instrument on transnational corporations and other business enterprises on human rights

In 2014, within the UN Human Rights Council, Ecuador and South Africa jointly presented a proposal to develop a binding international instrument on transnational corporations and other business enterprises regarding human rights. This led to the Human Rights Council adopting Resolution A/HRC/RES/26/9, establishing an Open-Ended Intergovernmental Working Group (OEIGWG) with the mandate to develop this instrument.

To date, the OEIGWG has had seven sessions, during which the Permanent Representative of Ecuador to the UN in Geneva held the Chairmanship and acted as the Rapporteur of the OEIGWG. In the fourth session of the OEIGWG, which took place in October 2018, the Chair-Rapporteur presented an initial version (draft "zero") of the instrument. In the following sessions, revised versions were presented, taking into account the negotiations and discussions during the sessions of the OEIGWG. The four versions seek to bolster the effectiveness of the third pillar of the UNGPs: access to justice for victims of abuses and violations committed in the context of business activities. The concept note shared by Ecuador prior to the first session of the OEIGWG highlighted the asymmetry between rights and obligations of transnational companies in the international legal system. The note explained that, on the one hand, these companies have benefited from rights granted to them by certain international legal instruments, such as bilateral investment treaties (BITs). Through the specific dispute settlement

mechanisms associated with these instruments, companies have the possibility of access to justice. On the other hand, the note pointed out that these companies lack international legal responsibility commensurate with their role and influence in international and domestic affairs. In particular, companies are not bound by international law to respect human rights.

During the seventh session of the OEIGWG, held in October 2021, the Chair-Rapporteur stressed again that the instrument is meant to strengthen access to justice and remedy for those affected by business activities. He noted the improvements made to the third draft in this regard, notably in relation to human rights due diligence. Finally, the Permanent Representative of Ecuador called for the members of the OEIGWG to double their efforts and actively participate to the discussions related to the latest draft to strengthen the process and develop an instrument of the widest possible acceptance.

Sources: (United Nations, 2022^[39]) (Business & Human Rights Resource Centre, 2015^[40]) (UN Human Rights Council, 2014^[41]) (Government of Ecuador, 2022, pp. 21-22^[42]).

At the national level, the Constitution, enacted in 2008, marked a new era for Ecuador as national policies began to focus on sustainable development, notably through the design and implementation of the National Development Plans (*Planes Nacional de Desarrollo*, PND).¹² Ecuador's PND for 2017-2021 was developed in accordance with the 2030 Agenda. The PND contained three axes, each with three national development goals, mostly revolving around the protection of human rights, sustainable economic growth, and transparency and ethics in public governance (Government of Ecuador, 2017^[43]). The second axis focused on "An economy at the service of society" and recognised the role of businesses in promoting sustainability, promoting their contribution to social and environmental sustainability specifically and recognising its role in protecting labour rights and the environment, as well as the fight against corruption (Government of Ecuador, 2017^[43]). It also put forward the need for State-Owned Enterprises (SOEs) to comply with principles of efficiency, transparency, proper corporate governance and CSR (Government of Ecuador, 2017, p. 73^[43]).

Additionally, in May 2018, by Executive Decree No. 371, Ecuador declared that the 2030 Agenda had been adopted as a government policy and undertook to ensure that the Agenda was duly implemented (Government of Ecuador, 2018^[44]).

A new PND covering 2021 to 2025 was adopted in September 2021. Like the previous PND, the new plan focuses on sustainable development and recognises the role of businesses in this regard. The Plan is aligned with the SDGs and structured around the following pillars: economic, social, security, ecological transition and institutional (Government of Ecuador, 2021^[45]). Some key strategic objectives set by the Plan relating to an RBC agenda are: inclusive development of employment opportunities and labour conditions; the adoption of clear rules that promote trade, tourism, investment and modernisation of the financial system; and the boosting of productivity and competitiveness in key sectors, primarily agriculture, fisheries and industry; and also the conservation, restoration, protection and sustainable use of natural resources and the encouragement of sustainable development models that apply climate change adaptation and mitigation measures.¹³ Under the PND, the actions undertaken to achieve these objectives must align with the promotion of a circular economy (Government of Ecuador, 2021^[46]). In this respect, in July 2021, Ecuador enacted the Law on the Inclusive Circular Economy (*Ley Orgánica de Economía Circular Inclusiva*) (Government of Ecuador, 2021^[47]).

Beyond sustainable development, policy goals on Business and Human Rights and RBC have become increasingly important for Ecuador. In line with the country's leadership in developing an international legally binding instrument on business and human rights, in October 2020, the Government announced the launch of a process of development of a NAP for the implementation of the UNGPs and aspects covered by the OECD MNE Guidelines and the ILO Declaration concerning Multinational Enterprises, also taking into account international human rights standards of the universal and inter-American systems and the SDGs (Government of Ecuador, 2020^[48]; 2021^[49]) (see Section 3.1.1). The development of a NAP in

Ecuador is an opportunity to identify the progress already made and address issues that have been identified as challenges for the country in global indices dealing with areas relevant for RBC, such as strengthening the rule of law, ensuring respect for human rights, guaranteeing labour rights, protecting the environment, or ensuring transparency and tackling corruption (see Table 2.2).

Table 2.2. Ecuador's ranking in global indices relevant for RBC

Indicator	Country ranking	Number of countries
WEF Global Competitiveness Index (2019)	90	141
World Bank Doing Business (2020)	129	190
ITUC-CSI Global Rights Index (2020)	Rating 5	145
Yale Environmental Performance (2020)	56	180
RSF World Press Freedom (2020)	98	198
Global Slavery Index (2018)	123	167
WEF Global Gender Gap Index (2020)	48	153
Transparency International Corruption Perception Index (2020)	92	180
World Justice Rule of Law Index (2021)	83	139

2.3. Stakeholders' awareness of RBC

Like in other countries, stakeholders in Ecuador have become aware of the importance that businesses act responsibly. This is the result of the generally growing awareness over recent years of possible business-related adverse impacts, such as violations of human and labour rights, environmental pollution and the resulting social conflicts. It also stems from increasing demands for more transparency, access to public information, and the fight against corruption. However, the concept of RBC remains fairly unknown among Ecuadorian stakeholders. Initiatives by the private sector and civil society to date have mostly been based on a CSR approach and/or focused on the promotion of sustainable development and the SDGs.

In this regard, the creation of the Ecuadorian Consortium for Social Responsibility (*Consortio Ecuatoriano para la Responsabilidad Social*, CERES) in 2005 constituted an important milestone for the promotion of CSR in Ecuador. CERES is a network that currently gathers more than 75 public and private companies, CSOs and educational entities focused on promoting sustainable development and CSR, in close cooperation with government entities (CERES, 2019^[50]). For instance, in 2012 the Ministry of Labour (*Ministerio de Trabajo*, MDT) alongside CERES and UNICEF, created the Ecuador Free of Child Labour Network of Businesses (*Red de Empresas por un Ecuador Libre de Trabajo Infantil*, REDETI). The network promotes the implementation of good practices in companies and their value chains aimed at contributing to the prevention and eradication of child labour in the country (see Section 3.2.2) (Government of Ecuador, n.d.^[51]). In November 2019, CERES and the Fund for Environmentally Sustainable Investment (*Fondo de Inversión Ambiental Sostenible*) created the Fund for Social Responsibility and Sustainability (*Fondo de Responsabilidad Social y Sostenibilidad*). This Fund, initiated by the Government, is based on voluntary contributions from the private sector (Government of Ecuador, 2019^[52]). In alignment with the national sustainable development goals, the role of the Fund is to provide financial support to businesses that have a socially responsible approach and/or are committed to fight climate change or protect biodiversity (Government of Ecuador, 2019^[52]). Additionally, in September 2021, CERES awarded, for the first time, a Recognition for Socially Responsible Companies (*Distintivo ESR*) to 21 Ecuadorian companies for their commitment to promote CSR and sustainable development (CERES, 2021^[53]).

Additionally, according to information provided during the preparation of the Review, the Global Compact Network in Ecuador (*Pacto Global Red Ecuador*), launched in 2011, gathers more than 300 State-owned and private enterprises and CSOs. It has created various programmes to help companies comply with the ten principles of the Global Compact (which are aligned with RBC but do not include the due diligence

component of the OECD MNE Guidelines and the related Due Diligence Guidance aimed at avoiding adverse impacts) (UN Global Compact Ecuador, n.d.^[54]). For example, the Global Compact Network in Ecuador recently launched the programme called “Target Gender Equality” aimed at assisting member companies to make progress towards the achievement of SDG 5 on gender equality (UN Global Compact Ecuador, 2021^[55]).

Lastly, in 2017, the highest representative body of the private sector in Ecuador, the Ecuadorian Business Committee (*Comité Empresarial Ecuatoriano*, CEE), launched the project “Ecuador 2030 Productive and Sustainable” (*Ecuador 2030 Productivo y Sostenible*). This initiative seeks to coordinate different actors – from the public and private sector, academia and civil society – to develop projects aimed at achieving the SDGs (Ecuador 2030, n.d.^[56]). One of the initiatives of Ecuador 2030 was the creation of a network of businesses focused on promoting transparency (*Red Empresarial de Transparencia*, RET) in 2018 (RET, n.d.^[57]).

The fact that most Ecuadorian companies have yet to adopt an RBC approach is reflected in the responses to the Survey on RBC in LAC that the OECD carried out in 2020-2021 (see Annex B for the Survey’s methodology and sample). According to the survey results, only half of companies surveyed operating in or from Ecuador have already adopted written policies and/or reporting on some areas covered by the OECD MNE Guidelines, in particular to combat corruption. Moreover, less than a third of the companies carry out risk assessments on their suppliers and business partners as part of their supply chain due diligence. The survey responses also show that, although the COVID-19 pandemic triggered considerable human rights challenges for companies in Ecuador, these companies consider that having responsible business practices in place helped to strengthen their resilience during the crisis. On the other hand, in their responses, the large majority of companies indicated the need to receive training on RBC, in particular on due diligence, to address the risks that their activities can entail in terms of human and labour rights and/or the environment (see Box 2.3).

Box 2.3. Findings from the OECD 2021 Business Survey on RBC in Latin America and the Caribbean

The OECD 2021 Business Survey on RBC in LAC collected data on the RBC practices of 72 companies operating in or from Ecuador (respondents). The respondents answered different questions on their RBC policies, their risk-based due diligence processes, the COVID-19 crisis’ impact on their activities, and their future needs in terms of RBC-related training.

Highlights of the Survey’s findings include the following:

- **Half of respondents (50%) have adopted a written policy and management systems on one of the following RBC issues: human rights, labour rights, the environment, combatting corruption, consumer interests and disclosure.**¹ The majority of companies have policies in place for combatting corruption (57%), disclosure of information (55%) and labour rights (52%).
- **One third of respondents has put in place reporting on RBC**, while 60% do not publish any reports on RBC or related concepts such as CSR or environmental, social and governance (ESG) factors.
- **One third of respondents are familiar with the National Contact Point (NCP) system and indicate general knowledge of the NCPs.** Engagement with the NCPs was rated 3.0/10 by respondents (with 10 being the highest appreciation and 1 the lowest).²
- **30% of respondents report adopting an enhanced due diligence process when they identify risks in the supply chain.**³ Fewer than 27% of respondents carry out risk assessments on all their suppliers and business partners as part of their supply chain due

diligence process. 29% require all their tier 1 suppliers and business partners to fulfil RBC expectations as a requirement under a contract or agreement. Fewer than 16% organise training sessions on RBC or due diligence for their suppliers and business partners.

- The large majority of respondents (71%) indicate that the COVID-19 crisis triggered human rights challenges for their business.⁴ **8 out of 10 respondents report that having responsible business practices in place** (such as due diligence processes) **has helped navigate the crisis**, mostly with respect to worker's retention issues, productivity and the mitigation of risks.
- **The majority of respondents indicate the need for training on RBC.** More specifically, 54% report being interested in general training on RBC and due diligence, 48% on OECD RBC instruments as well as on labour and environmental impact assessments.

Notes:

1. Based on 42 responses.
2. Based on 32 responses.
3. Based on 27 responses.
4. Based on 24 responses.

Ecuadorian CSOs have also developed programmes and initiatives on some of the areas of the OECD MNE Guidelines. For instance, the National Anti-Corruption Commission (*Comisión Nacional Anticorrupción del Ecuador*, CNACE) was launched in 2015 by various CSOs, including the Workers United Front (*Frente Unitario de Trabajadores*, FUT) (El Universo, 2015^[58]). Its purpose is to promote the investigation of corruption cases and encourage legal actions in this regard. Other Ecuadorian CSOs, such as Mujeres Amazónicas or Ecuador's Alliance for Human Rights, have actively advocated for better protection of the rights of indigenous people and human and nature rights defenders against adverse business-related impacts (see Section 3.1.2).

3 **Regulating and enforcing in support of Responsible Business Conduct in Ecuador**

Governments can promote and enable RBC by embedding in their domestic frameworks the legislation, regulations and policies necessary to govern business conduct and prevent the occurrence of RBC issues in the areas covered by the OECD MNE Guidelines. To build an enabling environment for businesses to act responsibly, it is also essential that governments deploy the resources and capacities required to implement such legislations, regulations and policies. Ecuador can take additional steps in this direction by strengthening its regulatory and enforcement actions in several areas of the OECD MNE Guidelines, namely human rights, labour rights, environment and anti-corruption.

3.1. Human rights

The actions of businesses can have an impact on virtually the entire spectrum of internationally recognised human rights. Enterprises can adversely affect the human rights of their employees, their customers, workers in their supply chain and communities in the areas surrounding their business operations. Chapter IV on “Human Rights” of the OECD MNE Guidelines draws on, and is aligned with, the UNGPs.¹⁴ It also acknowledges that, while States have the responsibility to protect such rights, businesses are expected to respect human rights independently of the State’s ability or willingness to fulfil its international human rights obligations. Failure either to enforce relevant domestic laws or to implement human rights obligations, or the fact that the State may act contrary to those laws and obligations, does not diminish the responsibility of businesses to respect human rights.

Specifically, Chapter IV of the OECD MNE Guidelines requires companies, within the context of their own activities, to avoid causing, or contributing to, adverse human rights impacts in their own activities, and address such impacts when they occur, in addition to seeking to prevent or mitigate adverse human rights impacts that are directly linked to their business operations, products or services by a business relationship, even if they do not contribute to those impacts. This means that companies should have a policy commitment to respect human rights, carry out human rights due diligence (notably by reference to the Due Diligence Guidance, including sectoral guidances), and to provide for or cooperate through legitimate remediation processes where such adverse human rights impacts have occurred.

3.1.1. **Legal, policy and institutional framework**

Legal and policy framework

According to information provided by the Government during the preparation of the Review, Ecuador is the first country to have ratified the 27 legally binding international human rights instruments to be listed as

such in the United Nations Treaty Section, including all nine core international human rights instruments and nine optional protocols relating to these instruments (United Nations, n.d.^[59]; Government of Ecuador, 2020^[60]).¹⁵ Ecuador also accepts and participates in the inquiry procedures, as well as in the individual complaints and inter-state communications procedures of the United Nations human rights system.¹⁶ In addition, Ecuador has ratified most of the human rights treaties of the Inter-American Human Rights System (Government of Ecuador, 2016^[61]) – most recently the Instrument Against Discrimination and Intolerance which was ratified in July 2021 – and has also recognised the competence of its organs.

The Constitution provides that the provisions of any international human rights treaty ratified by Ecuador shall prevail over any other legal norm or act of Ecuador's public authorities.¹⁷ Moreover, according to the Constitution, the State's primary duties include guaranteeing human rights as set forth in the Constitution and in international instruments signed by Ecuador, as well as promoting sustainable development. The Constitution, which contains several articles on human rights in its Second Title, categorises human rights as follows:

- Rights for a Good Way of Living (Chapter 2), which correspond mostly to economic, social and cultural rights. These rights include the right to a healthy and ecologically balanced environment that guarantees sustainability and the “good way of living” (“*sumak kawsay*” in Quechua), water and food, science and culture, education, housing, health, labour and social security.
- Rights of Priority Persons and Groups (Chapter 3) (formerly known as rights of vulnerable groups), which include elderly people, children and adolescents, pregnant women, people with disabilities, people deprived of liberty and people with catastrophic or highly complex illnesses, users and consumers, and also people at risk, victims of domestic and sexual violence, child abuse, natural or man-made disasters.
- Rights of Communities, Peoples and Nations (Chapter 4), which include the rights of indigenous, Afro-Ecuadorian and Montubio peoples and nationalities (developed further below).
- Participation Rights (Chapter 5), which correspond to political rights and include the right to vote, to be consulted and to be elected.
- Freedom Rights (Chapter 6), which include the right to decent living, to personal well-being, prohibition of torture, the right to equality and non-discrimination, the right to associate, freedom of work, prohibition of slavery and exploitation, and the right to develop economic activities individually or collectively, in line with the principles of solidarity, social and environmental responsibility.
- Nature Rights (Chapter 7), which include the right for nature to be restored, which comprises the obligation for the State to establish effective mechanisms to achieve restoration and to adopt adequate measures to eliminate or mitigate harmful environmental consequences, as well as the application of preventive and restrictive measures for the preservation of nature.
- Protection Rights (Chapter 8), which include guarantees of due process, free access to justice and the effective, impartial and expeditious protection of rights and interests.

Aside from the Constitution, there are other laws in Ecuador related to human rights, such as the 2003 Code on Childhood and Adolescence, the 2006 Law on the Collective Rights of Black and Afro-Ecuadorian peoples, the 2007 Law on the Public Institutions of Indigenous Peoples of Ecuador, the 2012 Law on Disabilities, the 2014 Law on National Councils for Equality, the 2014 COIP, the 2017 Law on Human Mobility, the 2018 Law to Prevent and Eliminate Violence against Women, the 2019 Law on Elderly Persons, the 2019 Law on the Office of the Ombudsman and the 2021 Law on the Office of the Public Defender. However, this broad legal framework is not always properly applied, as demonstrated by the fact that, in 2021, Ecuador was ranked 84th out of 139 countries in the “regulatory enforcement” factor category of the World Justice Project Rule of Law Index, with a score of 0.49 (World Justice Project, 2021^[62]; Government of Ecuador, 2019^[63]; 2017^[64]; 2014^[65]; 2012^[66]; 2007^[67]; Government of Ecuador, 2014^[68]) (2019^[69]).

As regards human rights policies, as mentioned above, to ensure the full enjoyment and comprehensive protection of human rights, Article 275 of the Constitution provides that the State shall issue plans regarding the preparation of the country, that will ensure the exercise of rights and the principles enshrined in the Constitution. As a result, the main tool for policy design in relation to human rights in Ecuador is the PND, updated every four years since 2007 (see Section 2.2). One of the main objectives of the 2017-2021 PND was to promote “lifetime rights for all” by, among other goals, ensuring a decent life and equal opportunities for all and protecting nature’s rights for current and future generations (Government of Ecuador, 2017^[43]). A new PND was adopted in September 2021 for 2021-2025, which has the goal of ensuring comprehensive protection of human rights. Ecuador has also launched a process of developing a NAP, aligned with the PND’s long-term vision and objectives. At the time of writing, the development of the NAP was temporarily at a standstill while the options for preparing a baseline on Business and Human Rights were being identified (see Box 3.1).

Box 3.1. Ecuador’s National Action Plan on Business and Human Rights

On 15 October 2020, Ecuador announced the start of a process to develop a National Action Plan (NAP) to implement the UN Guiding Principles on Business and Human Rights (UNGPs).

To develop the NAP, the Government established an interinstitutional platform in March 2021, led by the Ministry of Foreign Affairs and Human Mobility (*Ministerio de Relaciones Exteriores y Movilidad Humana*, MREMH), with the participation of eight government institutions. During the launch event, the MREMH explained that Ecuador’s objective with this NAP is to promote the implementation of international standards on Business and Human Rights jointly with the Sustainable Development Goals (SDGs) and the national strategy for the country’s development embodied in the National Development Plan (*Plan Nacional de Desarrollo*, PND). The aim of the NAP is to further attract high quality and responsible investments and to guarantee that victims of adverse business-related impacts have access to remedy.

After the NAP development process was launched, several workshops were held with different government entities and stakeholders to explain the purpose of a NAP and initiate a discussion on the main challenges that the country faces in the field of Business and Human Rights. Then, between September and December 2021, an Interinstitutional Roundtable was set up to develop the NAP, with the participation of representatives from 29 governmental institutions, and a Multi-Stakeholder Roundtable was established, which was open to participation from the private sector, civil society, trade unions and academia, as well as indigenous, Afro-Ecuadorian and Montubio peoples and nationalities.

Following the request from the Multi-Stakeholder Roundtable, at the time of writing, the MREMH was exploring options for establishing the baseline assessment on Business and Human Rights, which will serve as input to the NAP. According to the provisional timetable, it is expected that most of the activities involved in developing the NAP will be carried out in 2022 and that the draft NAP will be presented in 2023.

Sources: (Government of Ecuador, 2022^[42]; 2021^[49]; 2020^[48]; UN Global Compact Ecuador, 2021^[70]).

A NAP, inasmuch as it outlines and embodies a general government policy on RBC, offers a major opportunity to align the policies of the various relevant government entities on issues pertaining to RBC and promote a coherent approach among institutions in the Business and Human Rights and RBC fields. It can also be used to cooperate with businesses and other stakeholders (such as CSOs, trade unions and representatives of indigenous, Afro-Ecuadorian and Montubio peoples and nationalities) with a view to promote their familiarisation with the concepts, practices and processes, as well as to gain a better understanding of shortcomings and needs, and to design a strategic action plan to foster responsible business practices and sustainable development in Ecuador. By elaborating a NAP, the country can also

develop and implement a long-term strategy for the protection of human rights by companies that goes beyond one presidential term. The recommendations contained in the various sections of this Review can serve as valuable input for the development of the NAP.

Ecuador should continue moving forward with the development process of its NAP, in articulation with the current PND and other relevant cross-cutting policy instruments, and complete it as soon as possible, in order to have an intergovernmental strategy promoting the respect for human rights by companies in the long term. In this development process, Ecuador should continue to promote and ensure the meaningful and balanced engagement and participation of all relevant government entities, as well as of all stakeholders, including representatives of the private sector, trade unions, civil society and indigenous, Afro-Ecuadorian and Montubio peoples and nationalities.

Institutional framework

In order to be effective, a legal and policy framework requires an adequate institutional framework that ensures its implementation. Ecuador has several institutions with competences in the human rights field.

The Human Rights Secretariat (*Secretaría de Derechos Humanos*, SDH) is the governing body for human rights policies in Ecuador. It encourages the promotion and comprehensive protection of rights, the participation and exercise of citizenship and compliance with national and international obligations by the Ecuadorian Government, among other functions (Government of Ecuador, 2021^{[71]; [72]}).¹⁸

The Office of the Ombudsman (*Defensoría de Pueblo*, DPE), as the National Institution for the Protection and Promotion of Human Rights and the Rights of Nature, is the entity responsible for ensuring the promotion, protection and safeguarding of human and nature rights in Ecuador (Government of Ecuador, 2019^[69]).¹⁹ The Constitution establishes the DPE's functions²⁰ and the 2019 Law on the Office of the Ombudsman (*Ley Orgánica de la Defensoría del Pueblo*) sets out the purposes and principles and also the competences of the DPE (Government of Ecuador, 2019^[69]). In recent years, the DPE has become a significant player in the promotion of respect for human rights by companies in Ecuador. In 2016, the DPE created an Executive Committee on Business and Human Rights (*Comité Ejecutivo de Empresas y Derechos Humanos*), which reconvened recently, in 2021. Among other functions, the Executive Committee is responsible for: (i) promoting respect for international human rights standards by the business sector in Ecuador; (ii) coordinating actions with national and international stakeholders in this area; (iii) influencing business policy design with a focus on human and nature rights; and (iv) drawing up reports and proposals on issues relating to violations of human and nature rights in the business context (Defensoría del Pueblo, 2021^[73]). Based on these functions, the DPE plays a strategic role in the NAP preparation process, for instance by holding workshops jointly with the MREMH to encourage CSOs to participate in the process (Defensoría del Pueblo, 2021^[74]).

Ecuador has, moreover, established five National Councils for Equality (*Consejos Nacionales de Igualdad*, CNI).²¹ Under the Constitution and the Law on the National Councils for Equality (*Ley Orgánica de los Consejos Nacionales de Igualdad*), the CNIs ensure the exercise of the human rights enshrined in the Constitution and in international human rights instruments (Government of Ecuador, n.d.^[75]).²² The CNIs are also responsible for formulating, monitoring and evaluating policies involving the issues of gender, peoples and nationalities, intergeneration, disabilities and human mobility (Government of Ecuador, 2016^[76]).²³ To do this, the CNIs develop and approve the National Agendas for Equality (*Agendas Nacionales para la Igualdad*), which are intended to guarantee observance of human rights, reduce inequality gaps and eliminate discrimination through planning at all levels of government.²⁴ A special feature of the CNIs is that they can also alert the relevant institutions to cases of threats or violations of rights and follow up on complaints and, if necessary, through the Ombudsman, request that precautionary measures be put in place.²⁵

Judicial remedy mechanisms

The right to remedy is a core tenet of the international human rights system. As part of their duty to protect human rights against abuse by businesses, States must take appropriate steps to ensure that, when such abuses occur, victims have access to effective remedy.

The Constitution provides that the Constitutional Court is the highest authority for interpretation of international human rights treaties ratified by the Ecuadorian State.²⁶ The Court, which is independent from the judiciary and other branches of government, is also responsible for hearing and ruling on actions for compliance with decisions or reports from international human rights protection bodies that cannot be executed through ordinary judicial proceedings.²⁷ Among other functions, the Constitutional Court is also responsible for hearing and issuing rulings on actions for injunction concerning the effective safeguarding of rights recognised in the Constitution.²⁸ These actions may be brought when such rights have been breached by any non-judicial public authority, but also based on a complaint filed against a person in case of severe damage, or if the person provides improper public services, if they act by delegation or concession, or if the affected person is in a state of subordination, defencelessness or discrimination.²⁹

The judiciary is also of particular importance in ensuring access to an effective remedy for victims of human rights violations. The Constitution lays out a number of fundamental principles governing the judicial power, including the independence of the judiciary, free access to justice, respect for due process, the public nature of the judicial process and the grounds for judgment.³⁰ In Ecuador, the judiciary is made up of the following judicial bodies: the National Court of Justice, the Provincial Courts of Justice; the courts and tribunals established by law and the magistrate's courts.³¹ The Council of the Judiciary (*Consejo de la Judicatura*, CJ) is the body that governs, administrates, oversees and disciplines the judiciary, whereas the Office of the Public Defender (*Defensoría Pública*, DP) and the Attorney-General's Office (*Fiscalía General del Estado*, FGE) are autonomous bodies of the judicial branch.³²

The DP has the mandate to guarantee full and equal access to justice.³³ It provides technical legal services free of charge to support individuals in a state of defencelessness or who lack the means to hire private legal defence services for the protection of their rights.³⁴

In turn, the FGE is responsible, by virtue of its office or at the request of a party, for conducting pre-trial inquiries and criminal proceedings. According to information provided by the FGE during the preparation of the Review, the FGE investigates cases on the basis of their nature and in accordance with the criminal classification of an offence that companies might commit. The cases are referred to the competent units, as appropriate (Government of Ecuador, n.d.^[77]). For example, cases involving corruption issues are assigned to the Transparency and Anti-Corruption Unit (*Unidad de Transparencia y Lucha contra la Corrupción*). Cases relating to environmental matters are handled by the Environmental Offences Unit (*Unidad de Delitos Ambientales*). Cases involving violations of human rights and/or murders, threats and abetments in respect of people or groups are the responsibility of the People and Safeguards Unit (*Unidad de personas y garantías*). Lastly, in the specific case where state involvement is established in the commission of extrajudicial executions, forced disappearances or crimes against humanity by companies, the case would be investigated by the Human Rights and Citizen Participation Directorate (*Dirección de Derechos Humanos y Participación Ciudadana*). Should there be merit to the claim, the Attorney-General charges the alleged offenders before the competent court.³⁵

Despite the aforementioned constitutional provisions and this institutional framework, the judiciary in Ecuador has, for several years, been facing challenges associated with issues of lack of independence, inefficiency, and allegations and perceptions of corruption, as reflected by the recommendations made to Ecuador in the context of its most recent Universal Periodic Review (UPR)³⁶ and CSO reports (UN Human Rights Council, 2017^[78]; Human Rights Watch, 2021^[79])³⁷. Ecuador ranks fairly low in terms of the quality of civil and criminal justice in the World Justice Project's Rule of Law Index. In 2021, Ecuador ranked 83rd out of 139 countries (with a score of 0.49) for the quality of its civil justice and 101st (with a score of 0.36) for the quality of its criminal justice (World Justice Project, 2021^[62]). Ecuador's worst ratings on civil justice

were in the categories of “Civil justice is free of improper government influence” (100th), “Free of discrimination” (97th) and “Free of corruption” (95th).

However, some steps have been taken to address these challenges. For instance, in 2020, the Constitutional Court began dismantling the legal framework that was alleged to have allowed for interference in the activities of the judiciary. The Court ruled that the CJ, the administrative and disciplinary body for the judiciary, could no longer sanction a judge, prosecutor, or public defender without a prior judicial decision. Through its ruling, the Constitutional Court established that to be sanctioned, justice officials had to be found acting with “criminal intent, evident negligence” or committing an “inexcusable error” (Human Rights Watch, 2021^[79]; Ecuador’s Constitutional Court, 2020^[80]). Similarly, since 2022, the CJ has focused its actions on four intervention priorities, seeking to tackle these challenges: (i) institution-building through the training and assessment of justice officials; (ii) the fight against corruption; (iii) judicial independence and disciplinary control; (iv) strengthening of the mechanisms for investigation and punishment in cases of sexual violence. It has also implemented actions to ensure effective access to justice, with special emphasis on priority groups (Consejo de la Judicatura, 2022^[81]).

State-based non-judicial grievance mechanisms

As it has not yet adhered to the OECD Declaration on International Investment and Multinational Enterprises, which contains the OECD MNE Guidelines, Ecuador does not have a NCP, which could act as a non-judicial grievance mechanism for matters relating to RBC. Indeed, as explained above, the NCPs for RBC not only have the task of promoting the OECD MNE Guidelines, but are also responsible for managing and helping to resolve “specific instances”, that is cases relating to the non-observance of the recommendations contained in the Guidelines (see Section 1). In recent years, it is the chapter of the OECD MNE Guidelines on human rights that has been most frequently referred to in cases of this kind (OECD, 2021, p. 23^[82]).

However, the victims of adverse impacts on their human rights (or the rights of nature) in relation to business conduct can file complaints or claims with the DPE, which, exercising its powers and functions,³⁸ can bring proceedings so that the various jurisdictional guarantees concerning human rights can be brought into play. Any Ecuadorian citizen can request the intervention of the DPE if it considers that any public entity or natural or legal person has violated their fundamental rights or affected their legitimate interests (or those of nature) (Defensoría del Pueblo, 2021^[83]). When it receives a complaint about an violations of human rights (or the rights of nature), the DPE can take measures, bring actions and undertake relevant formalities to prevent harm from occurring or help the person or the group of people affected to obtain redress (Defensoría del Pueblo, n.d.^[84]).³⁹ Between 2017 and 2019, the DPE managed nine cases relating to violations of human rights by companies, including the Furukawa case (Defensoría del Pueblo, 2020, p. 37^[85]). In this case, the DPE intervened on a number of occasions to urge various government entities to take the necessary measures to put an end to the human rights violations perpetrated by a company in the agricultural sector (see Box 3.2).

Box 3.2. RBC-related cases before the Office of the Ombudsman: the Furukawa case

In October 2018, agricultural workers at abaca fibre farms were dismissed by Furukawa Plantaciones CA del Ecuador (Furukawa). The workers and their families filed a complaint against the company with the Office of the Ombudsman (*Defensoría de Pueblo*, DPE). The initial meetings between the DPE and the dismissed workers revealed that the allegations included major human rights violations by Furukawa. For this reason, representatives of the DPE joined a labour inspection from the Ministry of Labour (*Ministerio de Trabajo*, MDT).

In its February 2019 human rights verification report, the DPE details the findings of this site visit. According to the report, Furukawa, which has been operating in Ecuador since 1963, had built camps in which entire families, mostly of African descent, lived, working exclusively for the company. It was found that these families were living in conditions of extreme poverty, with restricted movement and without social security and basic services such as water and electricity. The workers – some of whom had been there for over 40 years – did not have a work contract with the company but a leasing contract signed with an intermediary who also lived on the camps, in an effort to avoid complying with labour laws. The report concludes that Furukawa had established a system of life and work for its workers and their families, which constituted a form of slavery, in addition to endangering their health and violating their right to decent housing and an adequate standard of living, among others. Ultimately, the report issued several recommendations to all the government entities involved in the case: the MDT, the Ministry of Economic and Social Inclusion (*Ministerio de Inclusión Económica y Social*, MIES), the Ministry of Health (*Ministerio de Salud*) and the then National Secretariat for Policy Management (*Secretaría Nacional de Gestión de la Política*) (the functions of which have now passed to the Ministry of the Interior (*Ministerio de Gobierno*)), among others. In its first follow-up report of April 2019, the DPE stresses that some of these bodies failed to take adequate measures to put an end to the human rights violations perpetrated by Furukawa. In particular, it points out that, although the MDT took measures together with the MIES, the Ministry of Health and the then National Secretariat for Policy Management, these measures did not have the expected consequences. According to information provided by the MDT during the preparation of the Review, on the basis of the complaints, the MDT periodically carried out targeted labour inspections, as a result of which it imposed fines on the company and issued a decision recommending the suspension of Furukawa's operations. In spite of this, Furukawa continued operating, threatening to sack or evict its workers if they reported to the DPE.

The DPE issued its final report in July 2020, stressing that the government entities involved in the case had not complied with its earlier recommendations. For example, the final report states that the Ministry of the Interior did not sufficiently coordinate the various government entities involved to put an end to the violations perpetrated by Furukawa. The report also states that the negotiation rounds between the workers and Furukawa initiated by the Ministry had lasted for over four months without any positive results for workers. As for the MDT, the report notes that the MDT temporarily closed the company, ordering the suspension of its activities until it complied with labour laws, and also issued several fines against the company. However, the report says that the MDT had not addressed the matter entirely satisfactorily. Although the MDT, within its powers, lifted the suspension of Furukawa's operations following an inspection, the DPE, after a new site visit, confirmed ongoing violations without improvements since its last visit. The DPE noted that some of the camps had been demolished and vacated after the company had resumed its operations, which had worsened the living conditions of the families living in those camps. The DPE's final report concludes that the Government had failed to comply with its obligation to guarantee the observance of the human rights of the people working for Furukawa and their families. It also points out that the government entities involved had prevented the victims from obtaining proper reparations and had minimised the severity of the facts by treating it merely as a labour law conflict.

In parallel, in December 2019, 123 persons working and living in Furukawa's camps initiated constitutional protection proceedings against the company and various government entities (the MDT, the MIES and the Ministry of Health). In its April 2021 decision, the Constitutional Court confirmed the human rights violations. In particular, the Constitutional Court found that Furukawa, through its actions, and the government entities involved in the affair, through their omissions, had violated the right to equality and non-discrimination, the right to an adequate standard of living, the right to labour, the right to social security, the right to adequate housing, the right to education, the right to health, the right to water, the right to adequate food and the right to identity, and had infringed the prohibition of child labour and the prohibition of slavery and serfdom in all its forms.¹ This is the first time that a judgment finds a

company liable for modern slavery in Ecuador. The Constitutional Court awarded to each of the victims five acres of land or the equivalent in value in addition to the damages that are to be determined by a court-appointed expert. It also ordered the government entities involved to comply with their obligations to protect the human rights of the people living in Furukawa's camps, and, moreover, to issue public apologies to the victims,² which the three Ministries involved did, by publishing announcements on their respective web pages in 2021.

In October 2021, the Constitutional Court upheld its judgment of April 2021, confirming the human rights violations perpetrated by Furukawa. However, it ruled that the government entities involved in the case were not responsible for these violations, as they had taken measures within their powers upon learning of the situation reported by the Furukawa workers.³ Following these proceedings before the Constitutional Court, more Furukawa workers have reached out to the DPE to launch further actions against the company.

Notes:

1. Decision of the Unidad Judicial contra la Violencia a la Mujer o Miembros del Núcleo Familiar of the Canton of Santo Domingo of 19 April 2021 in Judgment No. 23571-2019-01605, paragraph VI(a), <https://www.trabajo.gob.ec/wp-content/uploads/2021/05/Sentencia-caso-Furukawa-Juicio-23571-2019-01605.pdf?x42051>.

2. *Ibid*, paragraph VI(b).

3. Decision of the Provincial Court of Justice of Santo Domingo de los Tsachilas of 15 October 2021 in Judgment No. 23571-2019-01605, seventh indent, paragraph 1, http://esacc.corteconstitucional.gob.ec/storage/api/v1/10_DWL_FL/e2NhcnBldGE6J2VzY3J.pdG8nLCB1dWlkOidkMDlwNzlhZi1kYzA3LTRjNjQtYTA2Ny1jOTMzMjZmYTE1NjgucGRmJ30=.

Sources: (Ecuador's Constitutional Court, 2021^[86]; Defensoría del Pueblo, 2019^[87]) (Government of Ecuador, 2021^[88]; ^[89]; ^[90]).

Ecuador also has administrative bodies for the protection of the rights of priority groups (children and adolescents; female victims of violence; and elderly people) at the local level, which can be regarded as a non-judicial grievance mechanism. The Cantonal Rights Protection Boards (*Juntas Cantonales de Protección de Derechos*) have the responsibility of protecting the individual and collective rights of these groups. For this purpose, in cases of threat or violation of rights, they can take various administrative measures for immediate protection to safeguard the rights under threat or restore the violated rights. They are also responsible for monitoring the implementation of these measures and can bring legal actions in the event of failure to comply with their rulings (Government of Ecuador, 2019^[63]; 2010^[91]; 2003^[92]; 2018^[93]).

Ecuador should strengthen its judicial and non-judicial grievance mechanisms to allow effective access to remedy in cases of adverse human rights impacts related to business activities. In particular, the DPE, given its experience in the Business and Human Rights field, should have the necessary resources to exercise its competences in this area and perform a key role in the development process of the NAP, which must include effective access to remedy as an essential component.

3.1.2. Specific cases of impacts of business activities on the human rights of particular groups in Ecuador

Rights of indigenous, Afro-Ecuadorian and Montubio peoples and nationalities

Ecuador has various ethnic groups, which represent an important part of the population. There are 14 nationalities and 18 peoples, officially recognised, coexisting on Ecuadorian territory (Government of Ecuador, 2017, p. 114^[43]). According to official data based on linguistic criteria, indigenous peoples and nationalities constitute 7% of the Ecuadorian population – amounting to around 1 million people – whereas Afro-Ecuadorian people account for 7.2% of the population and Montubio people 7.4% (Government of

Ecuador, 2019, p. 56^[94]). However, other sources estimate that these peoples make up between 35% and 45% of the Ecuadorian population (UN Human Rights Council, 2019, p. 3^[95]).

Ecuador has endorsed the UN Declaration on the Rights of Indigenous Peoples and the American Declaration on the Rights of Indigenous Peoples and is a party to the Indigenous and Tribal Peoples Convention (ILO Convention No. 169). Moreover, the Constitution devotes a whole chapter to the rights of indigenous, Afro-Ecuadorian and Montubio peoples and nationalities.⁴⁰ In particular, Article 57 of the Constitution (and Article 81 of the Law on Citizen Participation (*Ley Orgánica de Participación Ciudadana*)) establishes, among other things, that these groups have a right to free, prior and informed consent (FPIC), within a reasonable time frame, based on plans and programmes for exploring, producing and marketing non-renewable resources located on their lands, which could have an environmental or cultural impact on them, and to receive compensation for any social, cultural and environmental damage caused by these projects.⁴¹ The consultation must be carried out on a mandatory basis and in a timely manner.⁴² Article 57 also provides that any kind of extractive activity is forbidden in the territories of peoples in voluntary isolation.⁴³ Additionally, the Agenda for the equality of rights of indigenous, Afro-Ecuadorian and Montubio peoples and nationalities (*Agenda de Igualdad de Derechos de los Pueblos y Nacionalidades Indígenas, Pueblo Afroecuatoriano y Pueblo Montubio*) contains a series of policy proposals based on the demands made by organisations of these peoples and nationalities, which have been included in various planning documents, such as the PND, to promote equality and combat discrimination (Government of Ecuador, 2019^[94]).

Despite this legal and policy framework, various international actors have pointed out that indigenous, Afro-Ecuadorian and Montubio peoples and nationalities in Ecuador, and particularly women, are exposed to risks of rights violations in relation to business activities in certain sectors, such as mining or oil (UN Human Rights Council, 2019^[95]; UN Human Rights Council, 2020^[96]; CESCR, 2019^[97]; UNOHCHR, 2017^[98]). Since 2001, as a result of a complaint filed by the Ecuadorian Confederation of Free Trade Unions (*Confederación Ecuatoriana de Organizaciones Sindicales Libres*, CEOSL), based on ILO Convention No. 169, the ILO's Committee of Experts on the Application of Conventions and Recommendations (CEACR) has been formulating recommendations on this matter. In this case, the CEOSL alleged that the Government had failed to consult the indigenous Shuar People prior to signing an agreement with the oil company Arco Oriente, which allowed the company to exploit hydrocarbons in an area accounting for 70% of their territory (ILO, 2001^[99]). At the time, the Committee of Experts had already recommended, among other measures, that prior consultations be implemented in cases of exploration and exploitation of hydrocarbons that could affect indigenous and tribal communities and that the participation of the peoples involved be ensured at the various stages of the process, as well as in environmental impact studies and environmental management plans (ILO, 2001^[99]).

The challenges faced by the indigenous Kichwa people of Sarayaku as a result of a project for the exploration and exploitation of oil in the Amazon region are another example of indigenous people's rights violations associated with business activities in Ecuador. After a lengthy legal process, in 2012, the Inter-American Court of Human Rights (IACHR) found that Ecuador had violated various rights of these peoples – including the right to FPIC – and ordered the Ecuadorian State to take various measures by way of remedy. In particular, the IACHR stipulated that Ecuador should adopt the necessary measures to enforce the right to FPIC of indigenous peoples (IACHR, 2012, p. 82^[100]). According to information provided by the MREMH during the preparation of this Review, at the time of writing, Ecuador was complying with some of the measures ordered by the IACHR, including the one on the right to FPIC (see Box 3.3).⁴⁴

Box 3.3. Case of the indigenous Kichwa people of Sarayaku before the Inter-American Court of Human Rights

The case of the indigenous Kichwa people of Sarayaku began with the signing of a contract on exploration for hydrocarbons and exploitation of crude oil in the Amazon region between Ecuador's

state-owned oil company and the consortium formed by the Compañía General de Combustibles S.A. and Petrolera Argentina San Jorge S.A. in 1996. The area granted for this purpose in the contract covered land where various indigenous communities and peoples lived, including the Kichwa people of Sarayaku.

According to the judgment of June 2012 of the Inter-American Court of Human Rights (IACHR), on various occasions the consortium tried, in vain, to obtain the consent of the Kichwa people of Sarayaku to enter their territory. Despite this, the consortium entered the Sarayaku territory and carried out various actions that violated the rights of the Kichwa people, including destroying water sources necessary for the community's water consumption, and trees and plants of great environmental, cultural and nutritional subsistence value for the people.

As a result of these events, the IACHR deemed that Ecuador had violated the right of the Sarayaku people to free, prior and informed consent (FPIC), to indigenous communal property and to cultural identity. The Court stressed that, although the 2008 Constitution extensively protects the rights of indigenous peoples, there were no regulated measures guaranteeing the application of the right to FPIC. Among other measures, the Court ordered that Ecuador adopt any necessary measures to fully enforce the right to FPIC of indigenous peoples and modify any that might prevent the full and free exercise of this right. The Court added that the State must ensure the participation of the communities in this process. The IACHR also found that Ecuador had violated the right to life and to the personal integrity and freedom of members of the Kichwa people of Sarayaku, and their rights to judicial guarantees and judicial protection. Regarding these issues, the Court required, among other things, that Ecuador remove the 1 400 kg of pentolite explosive that the consortium had placed in the Sarayaku territory with the acquiescence and protection of the State. According to information provided by the Government during the preparation of the Review, at the time of writing, although the Government had complied with some of the measures ordered by the IACHR, it had not yet adopted legislation on the right to FPIC of indigenous peoples and it had not removed the explosive from the Sarayaku territory.

In October 2019, the Kichwa people of Sarayaku filed an application with the local courts to demand full enforcement of the IACHR judgment. In June 2020, the Ecuadorian Constitutional Court declared that the application against the Ecuadorian Government for non-compliance with the judgment was admissible (admissibility order). According to information provided by the Government during the preparation of the Review, at the time of writing, the proceedings before the Constitutional Court were still in progress, with the last hearing being held in June 2022.

Sources: (IACHR, 2012^[100]) (Sarayaku, 2020^[101]).

The lack of measures to ensure the enforcement of the right to FPIC of indigenous peoples in business projects was addressed in various recommendations by the United Nations Committee on the Elimination of Racial Discrimination (CERD) in its Concluding Observations on the 23rd and 24th Periodic Reports of Ecuador in 2017, and by the United Nations Committee on Economic, Social and Cultural Rights (CESCR) in its Concluding Observations on the fourth Periodic Report of Ecuador in 2019 (UNOHCHR, 2017, p. 4^[98]; CESCR, 2019, pp. 3-4^[97]). It was also stressed in a 2019 report by the United Nations Special Rapporteur on the Rights of Indigenous Peoples in Ecuador (UN Human Rights Council, 2019^[95]). This report highlights that the legislation and policies were not in line with the Constitution or international law and that some laws had been queried by indigenous organisations concerning their alleged unconstitutionality. According to the report, this situation allowed the Ecuadorian Government to continue granting concessions without consultation of, or consent from, indigenous people, which allegedly gave rise to conflicts and serious human rights violations in certain regions of the country (UN Human Rights Council, 2019, p. 6^[95]). According to the Special Rapporteur, a large part of the territories of certain indigenous peoples and communities had been granted in concession for the development of extractive projects, jeopardising their survival as peoples (UN Human Rights Council, 2019, p. 6^[95]). Another worrying issue, according to the

Special Rapporteur, is that the protected areas and other categories of environmentally protected sites in indigenous territories were established without any consultation of the people and that there were no adequate environmental restoration programmes, redress and/or compensation for the communities that had been affected by the adverse impacts of oil exploitation in their territories (UN Human Rights Council, 2019, p. 7^[95]). The report concludes that, in general, the Government had not adopted the necessary measures to guarantee the right to FPIC enshrined in the Constitution. The Special Rapporteur therefore recommends, among other things, that the Government should not grant further concessions for extractive projects without obtaining the FPIC of the communities living in the area and that all concessions not granted in accordance with the Constitution and international standards should be reviewed or, if necessary, cancelled (UN Human Rights Council, 2019, p. 16^[95]). The Special Rapporteur's report also makes a recommendation aimed at the private sector, in which she stresses their responsibility to respect the rights of indigenous peoples and recommends that they conduct human rights impact assessments in accordance with international standards and the UNGPs, in cooperation with the indigenous peoples (UN Human Rights Council, 2019, p. 20^[95]).

When the report was issued, the Ecuadorian Government stated that it was taking measures to ensure the consultation of indigenous peoples. Thus, in the context of the joint interactive dialogue with the Special Rapporteur and the Expert Mechanism on the Rights of Indigenous Peoples, held in September 2019 during the 42nd Ordinary Session of the United Nations Human Rights Council, Ecuador said that it was making major efforts to guarantee the processes of inclusion and consultation of indigenous peoples.⁴⁵ Similarly, in its mid-term voluntary report on compliance with the recommendations made to the country as part of the Third Cycle of the UPR, Ecuador reported on the measures that it had been taking with the aim of guaranteeing consultation of indigenous peoples (Government of Ecuador, 2022, p. 8^[42]).

Additionally, the Government started working on a draft law to ensure the exercise of the right to FPIC of indigenous, Afro-Ecuadorian and Montubio peoples and nationalities. However, the initiative suffered from delays, especially as a result of the COVID-19 pandemic, and representatives of indigenous peoples expressed their opposition to the project, given that they were not invited to take part in the discussions to determine the content of the new law (RAISG, 2020^[102]). Recently, the Government said that it was intending to resume this legislative initiative (Primicias, 2021^[103]). The 2021 Action Plan for the mining sector, for instance, states in this regard that, within the 100 days following its promulgation, the Ministry of Energy and Mines (*Ministerio de Energía y Minas*) (former Ministry of Energy and Non-renewable Natural Resources (*Ministerio de Energía y Recursos Naturales No Renovables*, MERNNR)) must, among other matters, facilitate and promote the generation of legislation on FPIC processes among indigenous peoples and nationalities for cases in which government decisions or authorisations might affect their territories (Government of Ecuador, 2021^[104]).⁴⁶ Furthermore, the Confederation of Peoples of Kichwa Nationality of Ecuador (*Confederación de Pueblos de la Nacionalidad Kichwa del Ecuador*, ECUARUNARI) drew up a draft Law on Prior Consultation, which was submitted to the National Assembly in February 2022 (Government of Ecuador, 2022^[105]). Similarly, the DPE also developed a draft Organic Code on free, prior and informed environmental and legislative consultation, which was submitted to the legislature shortly afterwards, in May 2022 (Government of Ecuador, 2022^[105]).

It should be emphasised that, until these draft laws materialise, respect for the right to FPIC of indigenous peoples is still not guaranteed in Ecuador. In February 2022, the Constitutional Court delivered a judgment on the right to FPIC of an indigenous community, among other things. In this judgment, the Court recognises that the right to prior consultation had been violated in relation to mining concessions granted in the territory of the Cofán indigenous community of Sinangoe, and lists the standards that any prior consultation must meet (Ecuador's Constitutional Court, 2022, p. 10^[106]). Although this judgment constitutes a positive precedent, it reflects the need to take action to guarantee the proper enforcement of the right to FPIC of indigenous, Afro-Ecuadorian and Montubio peoples and nationalities.

Ecuador should complete the development of, and adopt and implement, a legislative framework effectively guaranteeing the right of indigenous, Afro-Ecuadorian and Montubio peoples and

nationalities to free, prior and informed consent in the context of business-related projects, in accordance with the Constitution and international standards, and with the effective participation of representatives of these groups. Furthermore, Ecuador should take measures to prevent and address the potential impacts of large-scale projects on the rights of these groups, encouraging companies to undertake due diligence processes in line with OECD Due Diligence Guidance and, in particular, the OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector.

Defenders of human and nature rights

Another specific case of impacts of business activities on human rights, linked to the previous one, which has received a great deal of attention in recent years from international organisations and CSOs, involves the risks faced by defenders of human and nature rights and members of their families. A number of recent reports from these organisations point out that these people are often threatened and intimidated, experience violence or are even murdered as a result of their activities to defend human rights and nature in the context of business projects, in particular in Latin America and the Caribbean (UN Human Rights Council, 2020_[107]; Amazon Watch, 2021_[108]; Alianza por los Derechos Humanos Ecuador, 2021_[109]).

Regarding the situation in Ecuador, the last UPR for the country, from 2017, includes over ten recommendations to create a safer environment for human and nature rights defenders (UN Human Rights Council, 2017_[78]).⁴⁷ Similarly, the CERD and the CESCR, in their respective Concluding Observations on the combined 23rd and 24th Periodic Reports of Ecuador in 2017 and Concluding Observations on the fourth Periodic Report of Ecuador in 2019, expressed their concern for the safety of these people and made recommendations in this connection (CESCR, 2019, p. 3_[97]). Moreover, several CSOs recently reported on the risks faced by defenders of human and nature rights in this country. In 2021, Ecuador's Alliance for Human Rights (*Alianza por los Derechos Humanos Ecuador*), which gathers 18 CSOs, issued a report on 22 emblematic cases in the past ten years, involving 449 defenders of human and nature rights who had been intimidated, harassed, threatened, persecuted and even murdered (Alianza por los Derechos Humanos Ecuador, 2021_[109]). A recent example of the issues faced by them are the attempts to criminalise human rights defenders involved in the case of the Furukawa agricultural company (see Section 3.1.1), which were condemned by the DPE in October 2021 (Defensoría del Pueblo, 2021_[110]).

The situation of indigenous women who are human and nature rights defenders in Ecuador is even more critical. In her 2020 report, after her visit to Ecuador, the United Nations Special Rapporteur on Violence against Women, its Causes and Consequences, mentions that these women, especially those who oppose business projects in the extractive sector, are likely to suffer higher and more serious levels of violence (UN Human Rights Council, 2020, p. 16_[96]). The report explains that there are documented cases showing how these women and members of their families have been subject to reprisals, death threats and harassment because they are women and because of their work in defence of human and nature rights (UN Human Rights Council, 2020, p. 16_[96]). One example of this is the CSO *Mujeres Amazónicas*, whose members report having been attacked and having received death threats as a result of their activities against the development of extractive projects on indigenous lands (see Box 3.4).

Box 3.4. Case of the *Mujeres Amazónicas* organisation

The work of the civil society organisation (CSO) *Mujeres Amazónicas* reflects certain aspects of the situation faced by defenders of human and nature rights in Ecuador. The CSO *Mujeres Amazónicas* was set up by a group of indigenous Ecuadorian women from six indigenous nationalities (Kichwa, Shuar, Achuar, Shwar, Sápara and Waorani). As a result of their protests against the development of

extractive operations on their lands, some members of Mujeres Amazónicas have experienced retaliation.

After several site visits, in 2019, Amnesty International published a report on the security situation of four members of Mujeres Amazónicas, who had been attacked and received death threats. After highlighting the shortcomings in the country's response to these attacks, Amnesty International recommended that Ecuador should: (i) recognise the importance of the work of human and nature rights defenders; (ii) investigate the attacks against the members of Mujeres Amazónicas; (iii) design and implement a protection policy for human and nature rights defenders, in consultation with them; (iv) in this policy, include a protocol for investigating crimes against human and nature rights defenders; and (v) ratify the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement).

In 2020, Amnesty International reported that human and nature rights defenders in Ecuador were still facing serious risks. It urged the Government to take the necessary measures to protect them and stressed that an investigation into the violence suffered by the members of Mujeres Amazónicas should be launched.

Sources: (Amnesty International, 2019^[111]; 2020^[112]).

In recent years, Ecuador has taken steps to address the situation of human and nature rights defenders in the country and improve their protection. In May 2020, Ecuador became the ninth country to ratify the Escazú Agreement, the region's first environmental treaty and the world's first treaty to include provisions relating to the protection of environmental human rights defenders (Government of Ecuador, 2020^[113]).

A few months earlier, in December 2019, the SDH set up an interinstitutional roundtable to develop a general policy for the promotion and protection of the rights of human and nature rights defenders (Government of Ecuador, 2022, pp. 22-23^[42]). The roundtable has been led by the DPE and the SDH since July 2021, and among its members are the Ministry of the Interior (*Ministerio de Gobierno*), the Judicial Council (*Consejo de la Judicatura*), the Attorney-General's Office (*Fiscalía General del Estado*), the Office of the Public Defender (*Defensoría Pública*), the National Council for Gender Equality (*Consejo Nacional para la Igualdad de Género*, CNIG) and the National Council for the Equality of Peoples and Nationalities (*Consejo Nacional para la Igualdad de Pueblos y Nacionalidades*). First, the roundtable established a roadmap for action, which included guidelines for gathering information on violations of the rights of human and nature rights defenders. Then it prepared a conceptual framework for the design and implementation of a policy for the protection of human and nature rights defenders and invited CSOs and other stakeholders to participate in the policy development process (Prensa.ec, 2021^[114]). The purpose of this policy is twofold. It seeks to develop and reinforce promotion, prevention and protection mechanisms for human and nature rights defenders, bearing in mind the risks to which they are exposed. It also aims to reinforce the Government's ability to enforce a policy to protect human and nature rights defenders (Government of Ecuador, Forthcoming^[115]).⁴⁸ The conceptual framework sets out the necessary components of this policy and seeks to align it with the standards of the IACHR. These components were developed on the basis of a comparative study of the policies developed in LAC countries for the protection of human and nature rights defenders (Government of Ecuador, Forthcoming^[115]).⁴⁹ Some CSOs have nonetheless criticised the process of developing the policy. For instance, in its 2021 annual report, Ecuador's Alliance for Human Rights' annual report pointed out that the process had been stalling for over two years, that civil society was invited to participate only in the last stage of the process, and that there were doubts as to whether their input would be included in the policy (Alianza por los Derechos Humanos Ecuador, 2021, pp. 11-12^[109]). According to information provided by the SDH during the preparation of the Review, the timetable for the process of developing the comprehensive policy for promoting and protecting the rights of human and nature rights defenders has been recently revised to include a stage of information gathering from interviews with CSOs.

Ecuador should move forward with, and complete as soon as possible, the work of the interinstitutional roundtable aimed at developing the comprehensive policy for the promotion and protection of the rights of human and nature rights defenders, ensuring that their inputs and those of civil society are taken into consideration in the process, and adopt measures to guarantee the implementation of this policy. In this regard, Ecuador should encourage companies to pay particular attention to the situation of human and nature rights defenders when they conduct due diligence processes in line with OECD Due Diligence Guidance. Additionally, Ecuador should ensure that human and nature rights defenders who have been affected by adverse impacts in the past can have access to remedy.

Policy recommendations

1. Continue moving forward with the development process of the National Action Plan on Business and Human Rights (NAP) and conclude it as soon as possible, ensuring the meaningful and balanced engagement and participation of all relevant government entities, as well as of all stakeholders.
2. Strengthen judicial and non-judicial grievance mechanisms to allow effective access to remedy in cases of adverse human rights impacts related to business activities, in particular by providing the DPE with the necessary resources to exercise its competences and play a key role in the elaboration of the NAP, which must include effective access to remedy as an essential component.
3. Finalise, adopt and implement a legislative framework that guarantees the right of indigenous, Afro-Ecuadorian and Montubio peoples and nationalities to free, prior and informed consent in the context of business projects, and take measures to prevent and address the possible impacts of large-scale projects on the rights of these groups, encouraging businesses to carry out due diligence in accordance with the OECD Due Diligence Guidance.
4. Finalise, and take measures to implement, the comprehensive policy for the promotion and protection of the rights of human and nature rights defenders, and encourage businesses to pay special attention to their situation when carrying out due diligence processes. Ensure that human and nature rights defenders who have been affected by adverse impacts in the past can have access to remedy.

3.2. Labour rights

The OECD MNE Guidelines aim to promote the observance by enterprises of the international labour standards developed by the ILO, notably the fundamental principles and rights at work, as recognised in the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up (ILO 1998 Declaration). Chapter V on “Employment and Industrial Relations” of the OECD MNE Guidelines puts forth recommendations in relation to the provision of adequate information to workers on company operations, ensuring consultation and cooperation between employers and workers, as well as providing the best possible conditions of work, including adequate wages and occupational safety and health at work. Businesses are also expected to conduct due diligence on their operations and throughout their supply chains to identify, prevent and mitigate actual or potential adverse impacts on labour rights.

3.2.1. Legal, policy and institutional framework

Legal and policy framework

Ecuador has ratified 62 ILO Conventions, including eight of the ten Fundamental Conventions, three of the four Governance Conventions and 51 of the 176 Technical Conventions (see Box 3.11).

Box 3.5. ILO Fundamental and Governance Conventions ratified by Ecuador

ILO Fundamental Conventions

- Forced Labour Convention, 1930 (No. 29);
- Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87);
- Right to Organise and Collective Bargaining Convention, 1949 (No. 98);
- Equal Remuneration Convention, 1951 (No. 100);
- Abolition of Forced Labour Convention, 1957 (No. 105);
- Discrimination (Employment and Occupation) Convention, 1958 (No. 111);
- Minimum Age Convention, 1973 (No. 138);
- Worst Forms of Child Labour Convention, 1999 (No. 182).

ILO Governance Conventions

- Labour Inspection Convention, 1947 (No. 81);
- Employment Policy Convention, 1964 (No. 122);
- Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144).

Notes:

1. The ILO Fundamental Conventions not ratified by Ecuador are the Occupational Safety and Health Convention, 1981 (No. 155) and the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187).

2. The ILO Governance Convention not ratified by Ecuador is the Labour Inspection (Agriculture) Convention, 1969 (No. 129).

Source: (ILO, n.d._[116]).

At the national level, Ecuador has an extensive labour law framework. The Constitution recognises the right to work,⁵⁰ equal and fair pay,⁵¹ protection against discrimination,⁵² the right and freedom to organise,⁵³ collective bargaining⁵⁴ and strike⁵⁵ (Government of Ecuador, 2008_[117]). The right to social security is also enshrined in the Constitution (Government of Ecuador, 2008_[117]).⁵⁶ The Constitution highlights that it is the State's responsibility to ensure and guarantee the effective exercise of this right, including for persons who perform unpaid work in households, activities to support themselves in the rural sector and all forms of self-employment, and those who are unemployed (Government of Ecuador, 2008_[117]).⁵⁷ In addition to the Constitution, labour law in Ecuador is embodied in the Labour Code (*Código del Trabajo*),⁵⁸ the Law on Social Security (*Ley de Seguridad Social*)⁵⁹ and the provisions on workers in SOEs which are covered by the Law on State-Owned Enterprises (*Ley Orgánica de Empresas Públicas, LOEP*)⁶⁰ (Government of Ecuador, 2009_[118]; 2005_[119]; 2001_[120]). In the context of the COVID-19 pandemic, the Government enacted the Humanitarian Support Law (*Ley Orgánica de Apoyo Humanitario, LOAH*), designed to address the consequences of the health crisis, which also contains provisions relating to employment (Government of Ecuador, 2020_[121]) (see Box 3.6).

Box 3.6. Implications of the Humanitarian Support Law for labour rights

In response to the crisis caused by the COVID 19 pandemic, the Government approved the Humanitarian Support Law (*Ley Orgánica de Apoyo Humanitario*, LOAH) to encourage economic recovery, while at the same time preserving employment conditions. For this purpose, the LOAH promotes, among other things, agreements between employers and workers for greater flexibility and the ability to adapt working conditions to the changing circumstances arising from the COVID-19 pandemic.

The Ministry of Labour (*Ministerio de Trabajo*, MDT) is the government body responsible for verifying that companies do not infringe these rules. According to information provided by the MDT during the preparation of the Review, the Ministry therefore issued a number of guidelines and technical standards embodied in Ministerial Agreements to verify and monitor compliance with the LOAH and prevent abuses by employers in their agreements with workers.¹

However, the LOAH has been criticised, especially by the trade unions, which consider that it allowed companies to place pressure on workers to accept less favourable working conditions in order to keep their jobs. In this context, the unions and the Office of the Ombudsman (*Defensoría del Pueblo*, DPE) have brought more than 23 actions challenging its constitutionality, claiming that several provisions of the Law were unconstitutional. The DPE, in particular, maintains that the LOAH exacerbates the asymmetrical relationship between workers and employers, fosters job insecurity and violates various labour rights, including the right to collective bargaining and the right to a decent life. At the time of writing of this Review, some provisions of the LOAH had been declared unconstitutional by the Constitutional Court and several applications were still pending resolution by the Court.

Note:

1. See, for example, Government of Ecuador (2020), Acuerdo Ministerial No. MDT-2020-132 – Directrices para el registro de las modalidades y acuerdos laborales, establecidos en el capítulo III de la Ley Orgánica de Apoyo Humanitario (LOAH) para combatir la crisis sanitaria derivada del Covid-19, <https://www.trabajo.gob.ec/wp-content/uploads/2020/07/Acuerdo-Ministerial-NRO-MDT-2020-132..pdf?x42051>; Government of Ecuador (2020), Acuerdo Ministerial No. MDT-2020-133 – Directrices para la aplicación de la reducción emergente de la jornada de trabajo, establecida en la LOAH para combatir la crisis sanitaria derivada del Covid-19, <https://www.trabajo.gob.ec/wp-content/uploads/2020/07/Acuerdo-Ministerial-NRO-MDT-2020-133.pdf?x42051>.

Sources: (Ecuador's Constitutional Court, 2021^[122]; ^[123]; Defensoría del Pueblo, 2021^[124]; Government of Ecuador, 2020^[121]; ^[125]; 2020^[126]).

The MDT has also issued special rules to address certain labour issues, such as those concerning anti-discrimination, the regulation on the Elimination of Discrimination in the Workplace (*Normativa para la Erradicación de la Discriminación en el Ámbito Laboral*) and the Protocol to Prevent and Address Discrimination Cases, Harassment and Any Form of Violence Against Women in the Workplace (*Protocolo de prevención y atención de casos de discriminación, acoso laboral y toda forma de violencia en los espacios de trabajo*) (Government of Ecuador, 2017^[127]; 2020^[128]). Moreover, it is worth noting that Ecuador's PNDs also include a labour aspect, with associated targets. For instance, the PND for 2021-2025 contains, as the first goal of the economic pillar, the aim of increasing and fostering job opportunities and working conditions in an inclusive manner (Government of Ecuador, 2021, p. 49^[46]).

Despite this broad legal and policy framework, reports of violations of labour rights in Ecuador remain numerous, especially in the informal sector, with cases of child and forced labour, discrimination and violation of trade union rights. This is reflected in the fact that, in 2020, Ecuador received a rating of 5 (on a scale of 5) in the Global Rights Index of the International Trade Union Confederation (ITUC), which corresponds to a situation in which there is “no guarantee of [workers'] rights” (ITUC, 2020^[129]). According to the ITUC report for 2020, Ecuador is one of the countries in which workers risk being exposed to violence while exercising their rights, including at trade union protests (ITUC, 2020^[129]).⁶¹ The complaints before the ILO's supervisory bodies concerning Ecuador are also an indication of the existence of violations of

labour rights in Ecuador. To date, there have been 60 complaints against Ecuador before the ILO Committee on Freedom of Association (two of which are still ongoing, five being followed up and 53 closed) (ILO, n.d.^[130]). Similarly, three representations have been lodged for alleged violations of ILO Conventions (ILO, n.d.^[130]). Of these three representations, two relate to the alleged non-compliance by Ecuador with ILO Convention No. 169 on indigenous and tribal peoples, and they are closed and in progress, respectively (ILO, n.d.^[130]). The third representation relates to the suspected non-observance of the Discrimination (Employment and Occupation) Convention (No. 111), and it is closed (ILO, 2001^[131]; n.d.^[130]). Furthermore, in recent years, CEACR has, on several occasions, commented on Ecuador's implementation of various fundamental ILO Conventions, including Convention No. 87 on freedom of association and protection of the right to organise, Convention No. 98 on the right to organise and collective bargaining, and Convention No. 182 on the worst forms of child labour (ILO, n.d.^[130]) (^[132]).

Institutional framework

The MDT is the institution responsible for labour and employment policy in Ecuador. Among other functions, it is responsible for regulating and monitoring compliance with labour rights and obligations (Government of Ecuador, n.d.^[133]). In order to do this, the MDT's Vice-Ministry of Labour and Employment (*Viceministerio de Trabajo y Empleo*) has a number of specialised directorates (Government of Ecuador, n.d.^[134]). For example, the Directorate of Health and Safety at Work and Comprehensive Risk Management (*Dirección de Seguridad y Salud en el Trabajo y Gestión Integral de Riesgos*) is responsible for evaluating and monitoring the implementation of risk management systems at companies' workplaces and ensuring that these companies comply with the legislation and regulations on health and safety and on the prevention of occupational risks (Government of Ecuador, n.d.^[135]). The MDT's Directorate of Labour Organisations (*Dirección de Organizaciones Laborales*) is the body responsible for evaluating and controlling the process for the registration and operations of unions or any other type of labour organisations (Government of Ecuador, n.d.^[136]).

The MDT's Directorate for Control and Inspections (*Dirección de Control e Inspecciones*), together with the Regional Directorates of Labour (*Direcciones Regionales del Trabajo*), are the departments that manage labour inspections and complaints. According to information provided by the MDT during the preparation of the Review, Ecuador currently has almost 150 labour inspectors, who carry out comprehensive and targeted inspections within companies to ensure respect for labour rights and compliance with labour obligations (Government of Ecuador, 2017^[137]).⁶² However, the ILO recommends one inspector for every 15,000 workers in industrialised economies, meaning that Ecuador should have around 540 inspectors for its labour force of more than 8 million workers (ILO, 2006^[138]; Government of the United States, 2020, p. 5^[139]). In fact, after noting that, from 2017 to 2018, the number of inspectors in Ecuador had fallen by 22.5%, in 2019 the ILO's CEACR asked the Government to state the reason for the substantial drop in the number of inspectors and take the necessary measures to ensure that the number of labour inspectors is sufficient for the effective performance of their duties (ILO, 2019^[140]).

The MDT's Directorate of Labour Mediation (*Dirección de Mediación Laboral*) is responsible for acting as a mediator to resolve labour disputes, whether collective or individual.⁶³ To assist in resolving individual labour conflicts, the MDT set up the Labour Mediation Centre (*Centro de Mediación Laboral*) in 2015 (Government of Ecuador, n.d.^[141]). Parties can use the Centre to resolve their disputes without resorting to judicial proceedings, given that mediation proceedings are considered to be equivalent to a court ruling (Government of Ecuador, 2015^[142]; 2019^[143]).⁶⁴ Moreover, since 2021, to facilitate access to justice in labour matters for workers who are unable to hire a lawyer, the DP has opened two service points at MDT offices⁶⁵ to provide free legal defence for these workers (Government of Ecuador, 2021^[144]).

In addition to its specialised directorates and related agencies, the MDT also has a tripartite organisation to deal with labour issues. The National Council for Labour and Wages (*Consejo Nacional de Trabajo y Salarios*) is composed of representatives of the MDT and employers' and workers' organisations.⁶⁶ The

Government, employers and trade unions have been able to reach agreements on issues of labour law and its reform through this Council. For instance, in 2019, the Council reached an agreement on several proposals to reform the Labour Code. Among these proposals were the establishment of a maximum 40-hour working week and the creation of a new form of contract – the entrepreneurship contract – to allow for new undertakings and investments (Government of Ecuador, n.d.^[145]). Some of these proposals were reflected in the draft Law on Working Opportunities (*Ley Orgánica de creación de oportunidades, desarrollo económico y sostenibilidad fiscal*) (Government of Ecuador, 2021^[146]).

Ecuador should continue reinforcing its legal and institutional framework for the protection of labour rights, avoiding further weakening in the aftermath of the crisis caused by the COVID-19 pandemic. In particular, Ecuador should ensure that it devotes adequate resources to labour inspections and maintains a number of labour inspectors that is sufficient to achieve better identification, prevention and mitigation of adverse impacts on labour rights.

3.2.2. Specific cases of fundamental labour rights impacts in Ecuador

Right and freedom of association and collective bargaining

The Constitution recognises the right to form trade unions without prior authorisation⁶⁷ and the Labour Code governs workers' associations and collective conflicts.⁶⁸ However, the ILO's supervisory bodies and the unions consider that the right and freedom of association and collective bargaining may be limited by certain aspects of the labour law framework in Ecuador.

One provision of the Labour Code requires a minimum of 30 workers to form a union or a works council;⁶⁹ another provision requires that 50% of employees must approve the creation of a works council (Government of Ecuador, n.d.^[147]).⁷⁰ The ILO's supervisory bodies have found that this kind of provision could constitute an obstacle to the formation of trade unions in Ecuador and have asked the Government on several occasions to take measures to address this.⁷¹ Recently, in 2020, the ILO's CEACR reiterated this request, asking the Government to "take the necessary measures to reform sections 443, 449, 452 and 459 of the Labour Code in such a way as to reduce the minimum number of members required to establish workers' associations and enterprise committees" (ILO, 2020^[148]).

Moreover, Article 10(c) of the Regulations on Labour Organisations (*Reglamento de las Organizaciones Laborales*), embodied in the MDT's Ministerial Decision No. 0130 of 2013, provides that trade union executive committees shall lose their powers and competencies if they do not convene elections within 90 days of the expiry of their mandate (Government of Ecuador, 2013^[149]).⁷² According to the ITUC, the Regulations impose restrictions on trade unions' rights to organise their administration (ITUC, n.d.^[150]). The ILO's CEACR shares this opinion and has also asked the Government, on several occasions and most recently in 2020, to amend these Regulations so that this matter is determined by the statutes of the unions (ILO, 2020^[148]). According to information provided by the MDT during the preparation of the Review, the Directorate of Labour Organisations and the Directorate of Policies and Standards (*Dirección de Políticas y Normas*) of the MDT are working on a draft reform to the Regulations on Labour Organisations that would include a reformed Article 10(c).

Ecuador should complete its reform project of the Regulation on Labour Organisations and, more broadly, consider the possibility of amending its labour law framework so that it is aligned with international labour standards on freedom of association, the right to organise and collective bargaining, and cannot be regarded as a limit on the exercise of the right and freedom of association, which are fundamental to guarantee respect for all other labour rights.

Child labour

Ecuador has ratified all key international conventions on child labour (Government of Ecuador, 2018, pp. 36-46^[151]). Moreover, the Constitution provides that the State shall provide special protection for children and adolescents against any kind of labour or economic exploitation.⁷³ It also prohibits labour for children under the age of 15 and states that work by adolescents must be exceptional and must not compromise their right to education or take place in situations that are harmful or dangerous to their health or personal development.⁷⁴ Along the same lines, the Childhood and Adolescence Code (*Código de la Niñez y Adolescencia*) prohibits labour and economic exploitation of children and adolescents and any form of slavery, servitude, forced labour or any type of labour that is harmful to their health, physical, mental, spiritual, moral or social development, or that may hinder the exercise of their right to education.⁷⁵ It also sets the minimum age for any kind of work at 15 and lists types of work that are prohibited for adolescents.⁷⁶ Ecuador has also developed a broad institutional framework involving various government entities to fight against child labour (Government of Ecuador, 2018, pp. 87-97^[151]).

Moreover, the Government has adopted several policy actions on child labour in the past few years. Combating child labour was included in the most recent PNDs. The PND for 2017-2021 had as one of its objectives to eliminate child labour, reducing by almost half the percentages of working children and adolescents (Government of Ecuador, 2017, p. 58^[43]). Similarly, the PND for 2021-2025 includes, as part of its Objective 5, “Protecting families, guaranteeing their rights and services, eliminating poverty and promoting social inclusion”, a goal relating to the reduction of child labour, which aims to reduce the labour rate of minors between 5 and 14 years old from 6.10% to 4.42% (Government of Ecuador, 2021, p. 65^[46]). In line with this goal, the 2021-2025 Agenda for Intergenerational Equality (*Agenda para la Igualdad Intergeneracional*) includes a proposal for a policy on child labour with various lines of action that seek to prevent and eradicate labour by children and adolescents between 5 and 17 years old (Government of Ecuador, 2022, pp. 90-91^[152]). Additionally, in 2007, the MDT created the Project for the Eradication of Child Labour (*Proyecto de Erradicación del Trabajo Infantil*, PETI), which introduced strategies to reduce and prevent child and forced labour and to promote acceptable working conditions in companies’ supply chains (Government of Ecuador, 2019^[153]). For the period of 2017-2021, the PETI included several objectives, notably (i) carrying out more work inspections nationwide to formalise employment of adolescents over the age of 15; (ii) referring cases of working children under the age of 15 to cantonal rights protection systems, and (iii) organising workshops in strategic sectors to raise awareness of the consequences of child labour (Government of Ecuador, 2019^[153]). For these purposes, between 2017 and 2021, 11 319 verifications and monitoring exercises on labour inspections were carried out and 76 380 people were made aware of the issue of child labour in the context of the PETI (Government of Ecuador, n.d.^[51]).⁷⁷ The MDT has also upgraded its Unified System of Registration of Child Labour (*Sistema Único de Registro de Trabajo Infantil*, SURTI) to facilitate reporting (Government of Ecuador, 2019^[153]). However, according to information provided by the MDT during the preparation of the Review, the PETI finished at the end of 2021. At the time of writing of the Review, the MDT was continuing with some of the actions that began under the PETI and working on a project for the institutionalisation of a Directorate for the Prevention and Eradication of Child Labour (*Dirección de Prevención y Erradicación del Trabajo Infantil*), whose mission will be to prevent and eradicate child labour, and restore the rights of children and adolescents involved in child labour or dangerous adolescent labour.

The Government has also cooperated with the private sector in the fight against child labour. For example, the Network of Companies for an Ecuador Free of Child Labour (*Red de Empresas por un Ecuador libre de trabajo infantil*) was created by the MDT in 2012 with the support of UNICEF and in cooperation with the Ecuadorian Consortium for Social Responsibility (*Consortio Ecuatoriano para la Responsabilidad Social*, CERES) (Government of Ecuador, n.d.^[51]; INEC/UNICEF, 2015^[154]). The purpose of this network is to cooperate with companies, in both private and public sectors, to encourage them to take socially responsible actions seeking to eliminate child labour in their value chains (Government of Ecuador, n.d.^[51]). In 2019, the Network collaborated with the MDT to launch the programme “Actions that Educate” (*Acciones*

que Educan) to create free computer centres for schoolchildren's use in an effort to discourage child labour and promote children's right to education (Government of Ecuador, 2019_[155]). Furthermore, in 2018, the Ministry of Economic and Social Inclusion (*Ministerio de Inclusión Económica y Social*, MIES), along with the then Ministry of Foreign Trade (*Ministerio de Comercio Exterior*) and the Ministry of Industries and Productivity (*Ministerio de Industrias y Productividad*), and with the Chambers of Production and Trade (*Cámaras de la Producción y Comercio*), signed the National Government Pact with Children and Adolescents (*Pacto del Gobierno Nacional con Niñas, Niños y Adolescentes*), which provided for the creation of a Company Seal for Products Free from Violence and Child Labour (*Sello Empresarial por Productos Libres de Violencia y Trabajo Infantil*), designed to certify that products produced and sold in Ecuador are not linked to child labour (Government of Ecuador, 2018, p. 100_[151]; _[156]; n.d._[157]; _[158]).

However, the rates of child labour in Ecuador have not been reduced in recent years. According to the latest National Survey on Child Labour (*Encuesta Nacional de Trabajo Infantil*, ENTI), undertaken in 2012 by INEC, 8.6% of Ecuadorian children and adolescents were in child labour (INEC, 2012_[159]). This figure is in line with the data from ENEMDU, which indicates that child labour increased steadily between 2012 and 2017 (Government of Ecuador, 2018, p. 70_[151]). The upward trend has persisted in the past few years: according to data from the 2021-2025 Agenda for Intergenerational Equality, the child labour rate increased between 2017 and 2020 to reach 9.2% in 2020 (Government of Ecuador, 2022, pp. 57, 118_[152]). Most of the children and adolescents who work in Ecuador belong to the indigenous population and work in agriculture, and around half of them are exposed to at least one form of dangerous work (INEC/UNICEF, 2015_[154]).

Ecuador should continue its efforts towards reducing and eradicating child labour, ensuring that the policy proposal contained in the 2021-2025 Agenda for Intergenerational Equality is reflected in an instrument and/or in practical policy actions and that a project is designed and implemented as a successor to the PETI. Ecuador should also continue cooperating with the private sector in the fight against child labour, encouraging companies, for example within the framework of the Network of Companies for an Ecuador Free of Child Labour or the Company Seal for Products Free from Violence and Child Labour, to carry out due diligence to identify, prevent and mitigate actual or potential adverse impacts on the rights of children and adolescents.

Forced labour

Ecuador is a signatory to the ILO's Conventions on Forced Labour (No. 29) and the Abolition of Forced Labour (No. 105), but has not ratified the 2014 Protocol to the Convention No. 29, which includes due diligence as one of the measures to be adopted to prevent forced labour and respond to the risks that it entails (ILO, n.d._[160]).⁷⁸ The Constitution recognises rights to freedom that include the prohibition of slavery, exploitation and servitude.⁷⁹ Moreover, in accordance with the COIP, the subjection to forced labour or other forms of labour exploitation are criminal offences punishable by several years of imprisonment,⁸⁰ and the Labour Code prohibits all forms of slavery of minors.⁸¹

Despite having this legal framework to combat forced labour, Ecuador ranks 123rd out of 167 countries in the Global Slavery Index (Walk Free Foundation, 2018_[161]). According to data from the Walk Free Foundation, 41% of the Ecuadorian population is vulnerable to modern slavery, and some 40 000 people in Ecuador are in modern slavery (Walk Free Foundation, 2018_[161]). The case of the Furukawa agricultural company mentioned earlier reflects the risk of forced labour that currently exist in Ecuador and the challenges related to the compliance and enforcement of the applicable legal framework. In this case, the Constitutional Court recently found that the Government had failed to comply with its obligation to guarantee the observance of the rights of the people working for Furukawa, notably the prohibition of slavery and child labour (see Box 3.2). This case was also the subject of a recommendation by the CESCR in its Concluding Observations on the fourth Periodic Report of Ecuador, which expressed its "serious concern at the situation of forced labour in the Furukawa company" (CESCR, 2019, p. 6_[97]).

Ecuador should ensure that its legal framework on forced labour is enforced, developing specific policies and initiatives in this area and dedicating sufficient resources to monitor the effective implementation of the framework, in particular in the sectors that are more prone to involve risks of forced labour, such as agriculture. Ecuador should also seek to involve the private sector in the fight against forced labour by promoting RBC, since responsible business practices and due diligence processes based on the OECD RBC instruments are key to reducing the risks of forced labour in businesses' operations, supply chains or business relationships.

Gender equality and women's rights

Ecuador is one of the few countries that have ratified the 2019 ILO Violence and Harassment Convention (No. 190), the first international treaty to recognise the right of everyone to have a world of work free from violence and harassment, including gender-based violence and harassment (Government of Ecuador, 2021^[162]; ILO, n.d.^[163]). Following its entry into force, the MDT worked with UN Women on a roadmap for its implementation (Government of Ecuador, 2021^[164]; 2022^[165]). At the national level, the Constitution prohibits all forms of discrimination, harassment or acts of violence of any kind, whether direct or indirect, affecting women at work.⁸² The Law on the Prevention and Eradication of Violence against Women (*Ley Orgánica para Prevenir y Erradicar la Violencia contra la Mujer*) aims to prevent and eradicate various kinds of violence against women in different environments, including the workplace, and the principle of equality and non-discrimination (Government of Ecuador, 2018^[93]).⁸³ The COIP recognises sexual harassment as a criminal offense punishable by several years of imprisonment.⁸⁴ Moreover, at the time of writing of the Review, the legislature was examining a draft Law to Foster Women's Work, Equality of Opportunities and the Purple Economy (*Ley Orgánica para Impulsar el Trabajo de la Mujer, Igualdad de Oportunidades y la Economía Violeta*) (Government of Ecuador, 2021^[166]). Besides, in 2017, the MDT issued the Regulatory Framework for the Eradication of Discrimination in the Workplace (*Normativa para la Erradicación de la Discriminación en el Ámbito Laboral*), which establishes rules to prevent and eradicate discrimination, not only during the working relationship, but also at the pre-contractual stage,⁸⁵ and, in 2020, the Protocol to Prevent and Address Discrimination Cases, Harassment and Any Form of Violence Against Women in the Workplace (*Protocolo de Prevención y Atención de Casos de Discriminación, Acoso Laboral y Toda Forma de Violencia en los Espacios de Trabajo*),⁸⁶ which applies to the public and private sectors (Government of Ecuador, 2017^[127]; Government of Ecuador, 2020^[128]). The PNDs also include among their goals the fight against gender-based discrimination in the workplace. One of the objectives of the PND for 2017-2021 was to guarantee a decent life with equal opportunities for everyone, which includes a goal to reduce the pay gap (Government of Ecuador, 2017, p. 58^[43]). Likewise, the PND for 2021-2025 includes, within its Objective 5, a policy to combat any form of discrimination and promote a life free from violence, especially against women, which includes goals for reducing gender gaps in employment and pay (Government of Ecuador, 2021, pp. 63-65^[46]). Ecuador's commitment to the gender agenda is also reflected in the inclusion of a whole chapter on trade and gender in the trade agreement recently signed with Chile⁸⁷ (see Section 4.2.2).

Notwithstanding the above, Ecuador is still logging a significant gender gap in the labour market. In 2020, it was ranked 48th out of 153 countries in the World Economic Forum's (WEF's) Global Gender Gap Index, with a labour force participation rate for women of 59.8% compared with 84.7% for men (WEF, 2020, pp. 147-148^[167]). The gap in the employment rate for women is considerable. According to INEC data, in 2021, women accounted for 54.6% of the unemployed population, whereas men accounted for only 45.4% of that population (INEC, 2021^[168]). Along the same lines, the results of INEC's ENEMDU for 2021 show that during that year 37.8% of men had decent employment, whereas only 25.5% of women had decent employment during the same year (INEC, 2022^[169]). As regards the pay gap, in December 2021, this was 19.1% (Government of Ecuador, 2021, p. 17^[170]). Moreover, the most recent data from the 2019 National Survey of Family Relations and Gender Violence (*Encuesta Nacional sobre Relaciones Familiares y Violencia de Género*) show that one in every five women working in Ecuador had suffered some kind of

gender-based violence in the workplace and, in particular, women with tertiary education, who were the ones who suffered most from such violence (Government of Ecuador, 2019, pp. 9-10^[171]). According to another 2020 study on sexual harassment and violence in Ecuadorian enterprises, carried out by the organisation CARE and the National Polytechnic School, four out of every 10 women have been subject to sexual harassment, a figure which is doubled in the case of domestic workers (CARE/Escuela Politécnica Nacional, n.d., p. 4^[172]).

Ecuador should sustain its efforts aimed at promoting gender equality and combatting violence against women in the workplace, ensuring compliance with and the effective implementation of its legal and policy framework on this subject. For this purpose, Ecuador should cooperate with the private sector and develop initiatives to raise businesses' awareness about the major role they must play in relation to gender issues in the workplace, and encourage them to adopt responsible business practices to address adverse impacts on women's rights.

3.2.3. Informality

Labour informality is a key structural challenge in building an enabling environment for RBC, since it prevents the exercise of fundamental labour rights and hinders the application of RBC principles and standards in supply chains. This is a major challenge in Ecuador given that, for several years, the country has had one of the highest levels of informality in Latin America and the Caribbean (OECD/CAF, 2019, p. 375^[13]). According to data from the ENEMDU, at the end of 2021, more than half of the Ecuadorian workforce was employed in the informal economy, with 38.5% of the population in urban areas and 72% of the population in rural areas employed in this sector (Government of Ecuador, 2021, pp. 14, 26, 38^[173]). As in other countries in the region, labour informality is highest among the self-employed (informality rate at 70.0%), domestic workers, family members working in family-run enterprises and employees of microenterprises (informality rate at 64.5%) (OECD/CAF, 2019, p. 375^[13]). Informality particularly affects women (52%), rural areas (69%), youth (81%), the elderly (78%), indigenous populations (78%) and workers in the bottom income quintile (81%) (INEC, 2021^[30]).

The impact of such a high level of informality is pervasive in diverse ways. Informality erodes tax collection, undermines productivity growth and leaves a large share of the workforce vulnerable to shocks due to lack of social protection, among other consequences. Ecuador is one of the countries in Latin America and the Caribbean with the lowest social security coverage, predominantly affecting women, low-income workers and ethnic groups (OECD, Forthcoming, 2023^[31]). The proportion of workers without labour-based social insurance and no safety nets in Ecuador is as high as 43% (N. Basto-Aguirre, 2020^[174]). Moreover, contributions to the pension system in Ecuador, even when slightly higher than the LAC average, are still low. Part of the problem is that Ecuador's contributory pension regime is small and regressive, and that the country has few individuals of working age contributing to the mandatory social security system (World Bank, 2018, p. 65^[175]).

The promotion of formal labour is one of the PNDs' objectives. For example, the PND for 2021-2025, under its Objective 1, "increase and foster, in an inclusive manner, job opportunities and working conditions", seeks to create new job opportunities in decent conditions and promote formal employment. One of the goals along these lines is to increase the share of adequate employment (*empleo adecuado*)⁸⁸ from 30.41% to 50% and reduce the youth unemployment rate to 8.17% by 2025 (Government of Ecuador, 2021, pp. 49-50^[46]). In line with these objectives, in 2020 the MDT issued the Guidelines governing Contracts for Specific Work or Service within the Line of Business (*Directrices que Regulan el Contrato por Obra o Servicio Determinado dentro del Giro del Negocio*) in order to create more formal sources of employment in the country, thereby guaranteeing respect for labour rights (Government of Ecuador, 2020^[176]).⁸⁹

Additionally, according to information provided by the Government during the preparation of this Review, Ecuador intends to promote formalisation through legislative and regulatory reforms, an increase in social

security affiliation, improvements in public transport, access to social programmes and training for workers. For example, the MDT has reported that it has started developing actions to encourage inclusion in the formal labour market through training and certification intended to improve workers' work profiles. However, at the time of writing, Ecuador had not developed a legal or policy framework or any practical initiatives that could help to boost formal employment (see Box 3.7) (OECD/CAF, 2019, p. 375^[13]). A number of draft laws to encourage the formalisation of workers, such as the draft Law for the Defence of Independent Workers and Retailers (*Ley de Defensa de los Trabajadores Autónomos y Comerciantes Minoristas*), were in the course of development, but none had been adopted (Consejo de Participación Ciudadana y Control Social, 2020^[177]).

Box 3.7. Examples of government policies and measures to promote formalisation

Intergovernmental discussions in the OECD on questions of informality and social inclusion have covered ways in which government action can help to promote formal employment. Four general measures have been identified, as follows:

- i. promote education and skills development;
- ii. adapt support to SMEs and self-employed workers to step up their activities and their participation in value chains;
- iii. focus support on the most vulnerable groups that are active in the informal economy and develop the social protection system; and
- iv. reinforce a consistent, clear framework to track down and measure informality.¹

A further six specific initiatives were also regarded as relevant to reducing informality:

- First, use digital technologies to reach citizens who would otherwise remain outside social protection measures.
- Second, simplify and improve universal official registries (databases containing information about the population with access to social protection mechanisms) in order to facilitate and expedite access to these mechanisms and foster the use of single identity documents that can further the transition to formal employment.
- Third, provide incentives to households and companies with informal employees to bring them into the formal sector.
- Fourth, increase awareness among companies of the benefits of formalisation and integration into social security systems and of the high costs of informality for individuals and society as a whole.
- Fifth, improve the accuracy and consistency of informality indices.
- Sixth, recognise title guarantees of informal workers and indigenous communities, such as rights to land and property, to promote their inclusion in formal contract agreements and enhance the ability of informal workers to participate in capital market mechanisms.²

Similarly, recent research by the Inter-American Development Bank (IDB) suggests that alternative fiscal policy systems can help to promote labour formalisation. Among these are, for example, the introduction of Negative Income Tax (NIT) or Earned Income Tax Credit (EITC) programmes, which can produce incentives for formalisation as well as generating fewer distortions than traditional non-contributory social programmes.³

As well as advice on international organisation policies, other countries' experiences can also provide examples of useful measures to tackle informality.

For instance, the 2019 OECD SME Policy Index for Latin America highlights Argentina's and Uruguay's initiatives to facilitate fiscal and administrative procedures by introducing the *monotributo* regime for small taxpayers. This is a single payment combining several taxes and contributions to social security for self-employed workers and microenterprises, which aims to simplify compliance and provide an incentive for formal economic activities.⁴

Likewise, an ILO study comparing formalisation policies in various LAC countries in order to identify good practices highlights a Costa Rican policy that made the insurance scheme more flexible for domestic workers. In 2017, the Caja Costarricense de Seguro Social, which regulates insurance for national workers, adopted a new calculation scale for contributions to social security based on the number of hours worked. This made it easier for workers without cover to obtain cover and be formalised, depending on the characteristics of their jobs.⁵ Moreover, the study lists good practices on incentives to promote tax payment by companies, such as the establishment of low-cost controls and more timely and appropriate sanctions in the event of non-compliance.⁶

Notes:

1. OECD (2020), OECD-LAC Virtual Social Inclusion Ministerial Summit "Informality and social inclusion in the times of COVID-19" – Background note for the session on "Informality and employment protection during and beyond COVID-19: good practices and the imperative of universal safety nets", p. 4, <https://www.oecd.org/latin-america/events/lac-ministerial-on-social-inclusion/2020-OECD-LAC-Ministerial-Informality-and-employment-protection-during-and-beyond-COVID-19-background-note.pdf>.

2. OECD (2020), OECD-LAC Virtual Social Inclusion Ministerial Summit "Informality and social inclusion in the times of COVID-19: key conclusions and policy considerations", <https://www.oecd.org/latin-america/events/lac-ministerial-on-social-inclusion/LAC-Ministerial-2020-Policy-Considerations.pdf>.

3. In NIT programmes, beneficiaries receive a minimum income, which is issued to individuals who are not working or are employed informally. The main difference between the NIT and traditional social welfare programmes is that, when a beneficiary of the NIT programme gets a formal job, the benefit does not disappear, but is gradually reduced as the employee's wage increases. EITC programmes follow the same principle as NIT, but differ in that, in the case of low-income individuals, the benefit increases as income grows. Later, when income reaches a certain level, the benefit stops growing and gradually diminishes. See IDB (2021), Now it is the Time to Foster Labor Formalization in Latin America and the Caribbean, <https://blogs.iadb.org/gestion-fiscal/en/now-it-is-the-time-to-foster-labor-formalization-in-latin-america-and-the-caribbean>.

4. OECD/CAF (2019), Latin America and the Caribbean 2019: Policies for Competitive SMEs in the Pacific Alliance and Participating South American Countries, SME Policy Index, pp. 82, 226 and 506, <https://doi.org/10.1787/d9e1e5f0-en>.

5. ILO (2018), Políticas de formalización en América Latina – Avances y desafíos, p. 254, https://www.ilo.org/wcmsp5/groups/public/---americas/---ro-lima/documents/publication/wcms_645159.pdf.

6. ILO (2018), Políticas de formalización en América Latina – Avances y desafíos, p. 232, https://www.ilo.org/wcmsp5/groups/public/---americas/---ro-lima/documents/publication/wcms_645159.pdf.

Ecuador should consider the possibility of developing and implementing an ambitious intergovernmental plan, with various measures of different kinds, to promote job formalisation and expand the reach of social protection; thereby enhancing the effective enjoyment of labour rights in the country. One of these measures should be to raise companies' awareness of the costs of informality and encourage business associations and companies of a certain size to verify – through due diligence processes based on the OECD RBC instruments – that the actors involved in their supply chains and business relationships do not have adverse impacts on the labour rights of their workers related to informality.

Policy recommendations

5. Further strengthen the legal and institutional framework for the protection of labour rights and ensure that adequate resources are dedicated to labour inspections.
6. Complete the reform of the Regulation on Labour Organisations and consider the possibility of amending the labour legal framework so that it is aligned with international

labour standards on freedom of association, the right to organise and collective bargaining.

7. Continue efforts aimed at combatting child labour, ensuring that the policy proposal of the 2021-2025 Agenda for Intergenerational Equality is reflected in an instrument and/or in policy actions, and that a successor project to the Project for the Eradication of Child Labour (*Proyecto de Erradicación del Trabajo Infantil*, PETI) is implemented. Continue cooperating with the private sector in this area, encouraging businesses to carry out due diligence to identify, prevent and mitigate adverse impacts on the rights of children and adolescents.
8. Ensure compliance with the legal framework on forced labour, developing policies and specific initiatives in this area, and allocating sufficient resources to monitor their effective implementation. Engage the private sector in combatting forced labour through the conduct of due diligence processes, which is key for reducing the risks of forced labour in businesses' operations, supply chains or business relationships.
9. Continue efforts to promote gender equality and combat gender-based violence in the workplace, ensuring the effective implementation of the legal and policy framework in this area. Develop initiatives to raise awareness among businesses of gender issues, and to encourage them to adopt responsible business practices to address adverse impacts on women's rights.
10. Develop and implement an ambitious intergovernmental plan to promote employment formalisation that integrates measures to raise companies' awareness of the costs of informality and encourage business associations and companies of a certain size to verify that their supply chains and business relationships do not have adverse impacts on labour rights related to informality.

3.3. Environment

Chapter VI of the OECD MNE Guidelines on the Environment calls on enterprises to take action to protect the environment and public health and safety, and generally to conduct activities so that they contribute to the wider goal of sustainable development. This entails sound environmental management that aims to control both direct and indirect environmental impacts (including impacts on public health and safety); establishing and maintaining appropriate environmental management systems; and improving environmental performance. It also entails proactive action to avoid environmental damage; working to improve the level of environmental performance in all parts of companies' operations, even where this may not be formally required; setting measurable objectives; training and educating employees with regard to environmental matters; and engaging in disclosure and awareness raising with stakeholders. Other parts of the OECD MNE Guidelines (e.g. the chapters on disclosure and on consumer interests) are also relevant to environmental impacts, including greenhouse gas (GHG) emissions. For example, the OECD MNE Guidelines refer to expectations to set targets consistent with international commitments; disclose social and environmental risks; report with a particular focus on GHG emissions; provide access to information; and inform consumers of the environmental and social impact of their decisions.

3.3.1. Business impacts on the environment in Ecuador: trends and key risks

Ecuador is one of the top 20 most biodiverse countries in the world due to its wide variety of climates, microclimates and terrestrial and marine biodiversity (CBD, n.d.^[178]). The country has 26 distinct habitat

types – three are among the world’s ten biodiversity “hot spots” (CBD, n.d.^[178]). The Ecuadorian Amazon region extends over 116 270 km², which represents 46.8% of the country’s territory and less than 2.0% of the Amazon rainforest (Borja, Aragón-Osejo and Josse, 2017, p. 65^[179]). To protect this natural heritage, there are 59 protected areas in Ecuador, representing 13.64% of the national territory (Government of Ecuador, 2020^[180]). Ecuador’s actions to protect the environment are reflected in the fact that, in 2022, Ecuador ranked 66th out of 180 countries in the Yale Environmental Performance Index, which ranks countries’ performance on high-priority environmental issues in two areas: protection of human health and protection of ecosystems (Yale Center for Environmental Law and Policy, 2022, p. 12^[181]).

However, in recent decades, Ecuador has faced major adverse impacts on the environment as a result of business activities, particularly those of the extractive sector. Since the increase of oil exploitation in the 1970s, the Ecuadorian Amazon region has suffered from environmental impacts of large scale extraction, including soil contamination, toxic waste incidents occurring in the Amazon forest and crude oil spillages in the Amazon River, causing harm to both the environment and local communities (Lessmann et al., 2016^[182]). In particular, rivers and lakes in the Ecuadorian Amazon have been subject to pollution by contaminants from oil extraction, endangering the health of local communities (Lessmann et al., 2016^[182]). The CERD, the United Nations Special Rapporteur on the Rights of Indigenous Peoples in Ecuador and CSOs report that these impacts have given rise to increasing tension with the indigenous peoples and nationalities, which has spilled over into social conflicts and concern for the loss of biodiversity among civil society (UN Human Rights Council, 2019, pp. 6-8^[95]; Amnesty International, 2019^[183]; UNOHCHR, 2017, pp. 3-4^[98]). Climate experts have also expressed concerns about the damage that the oil industry is causing to the Amazon rainforest, which plays a vital role in regulating the Earth’s climate (Anderson, 2019^[184]). In response to the drop in oil prices, mining projects in Ecuador increased in an attempt to diversify the economy (Government of Ecuador, 2020^[185]). According to the United Nations Committee on Economic, Social and Cultural Rights and climate experts, legal and illegal mining activities have also had both direct and indirect impacts on the environment in Ecuador, particularly in the Amazon region (CESCR, 2019, p. 10^[97]; Anderson, 2019^[184]).

Besides the extractive sector, agricultural expansion is also considered as having caused adverse impacts on the environment in Ecuador, notably due to changes in land use leading to deforestation (INABIO, 2020^[186]). Between 1990 and 2018, the country lost more than 2 million hectares of forest, and deforestation continues to grow, even though Ecuador reduced net annual deforestation from 92 742 hectares in the period 1990-2000 to 47 497 hectares in the period 2008-2014 (UNDP, 2019^[34]; Mongabay, 2021^[187]). According to data from the Ministry of Environment, Water and Ecological Transition (*Ministerio del Ambiente, Agua y Transición Ecológica*, MAATE), since 2018, an average of 94 353 hectares of forest is lost each year in the country, a surface area which, according to the FAO, is relatively large compared to other countries of the region with a larger territory (Mongabay, 2021^[188]).

3.3.2. Legal, policy and institutional framework

Legal and policy framework

Ecuador has signed and ratified some 15 international instruments related to environmental protection, notably the Paris Agreement (Government of Ecuador, 2016^[189]; 2017^[190]; United Nations, n.d.^[191]). Moreover, in May 2020, Ecuador became the ninth country to ratify the Escazú Agreement, the first treaty on environmental rights of the LAC region and the first in the world to include provisions on the protection of environmental human rights defenders (Government of Ecuador, 2020^[113]). Ecuador has also sought to promote environmental protection through the conclusion of trade agreements, such as the FTA signed with Chile in 2020, which includes a specific chapter on the environment and provisions designed to promote high levels of environmental protection (see Section 4.2.2).⁹⁰

At the national level, the Constitution is one of the most advanced in the world as regards the environment (United Nations, n.d.^[192]). On the one hand, it recognises the right of the population to live in a healthy and ecologically balanced environment that guarantees sustainability and the good way of living (*sumak kawsay* in Quechua) and states that environmental preservation, and the conservation of ecosystems and biodiversity and the integrity of the country's natural assets, and the prevention of environmental harm, and the recovery of degraded natural spaces are matters of public interest.⁹¹ On the other hand, the Constitution also separately grants a series of rights to nature (see Box 3.8).⁹²

Box 3.8. The granting of constitutional rights to nature

In 2008, Ecuador made history by becoming the first country in the world to grant constitutional rights to nature. The Constitution contains a whole chapter dedicated to the rights of nature.

This chapter provides that nature has the right to have its existence fully respected and to the maintenance and regeneration of its life cycles, structure, functions and evolutionary processes. It is also specified that any person, community, people or nationality can require the authorities to comply with the rights of nature and that the State must encourage both natural and legal persons (which covers companies) and groups to protect nature.

Moreover, the Constitution establishes that nature has the right to be restored – which is perceived separately from compensation for any individuals and groups that depend on the natural systems affected – and that, in the event of a serious or permanent environmental impact, the State must establish the most effective mechanisms to achieve restoration and adopt adequate measures to eliminate or mitigate harmful environmental consequences.

In 2011, the Provincial Court of Justice of Loja issued its first legal ruling upholding the rights of nature, as a result of a lawsuit filed by two individuals on behalf of the Vilcabamba River against the Provincial Government of Loja. In the ruling, the Court recognised that the Vilcabamba River's rights had been violated by a road-widening project.

Sources: (Provincial Court of Justice of Loja, 2011^[193]; CBD, n.d.^[194]; United Nations, n.d.^[192]; Government of Ecuador, 2008^[117]; GARN, 2011^[195]).

The Constitution also contains a detailed chapter on biodiversity and natural resources, in which a number of environmental principles are recognised.⁹³ Among other things, this chapter provides that each party involved in the processes of production, distribution, marketing and use of goods or services – which includes companies – must take direct responsibility for preventing any environmental impact, mitigating and repairing damage it has caused and keeping a permanent system of environmental control.⁹⁴

Beyond the Constitution, the Organic Environmental Code (*Código Orgánico del Ambiente*) – which came into force in April 2018 and overturned previous environmental legislation – consolidates the environmental legislation in Ecuador.⁹⁵ Together with its Regulation, issued in 2019, it encompasses, among other provisions, the regulations, procedures and standards for environmental permits, as well as regulations related to the remediation of environmental harm. For example, it provides that projects, works or activities with a medium or high environmental impact or risk are required to obtain an environmental licence, for which an environmental impact assessment (*Estudio de Impacto Ambiental*, EIAs) is needed.⁹⁶ The MAATE is the National Environmental Authority (*Autoridad Ambiental Nacional*), responsible for supervising the process of EIAs.⁹⁷ Additionally, the Environmental Regulation for Mining Activities (*Reglamento Ambiental para Actividades Mineras*, RAAM)⁹⁸ and the Environmental Regulation for Hydrocarbon Operations (*Reglamento Ambiental de Operaciones Hidrocarburíferas en el Ecuador*, RAOHE)⁹⁹ regulate the environmental management of mining and oil activities and seek to prevent, control, mitigate, and repair any environmental, social or cultural impact from such activities (Government of Ecuador, 2014^[196]; 2020^[197]). Recently, Ecuador also adopted a Law on the Inclusive Circular Economy

(*Ley Orgánica de Economía Circular Inclusiva*) with the aim of promoting sustainable production and consumption and fostering comprehensive, inclusive waste management, including by companies (Government of Ecuador, 2021^[47]).

Environmental protection is also a central objective of Ecuador's PNDs. The third objective of the PND for 2017-2021 was to guarantee the rights of nature for current and future generations (Government of Ecuador, 2017, pp. 64-67^[43]). For this purpose, the PND included policies designed, among other things, to promote good practices that would contribute towards pollution reduction, conservation, mitigation and adaptation to the effects of climate change, to drive forward an economy based on sustainable, value-adding use of renewable resources, and to encourage environmentally responsible production and consumption, based on the principles of the circular economy (Government of Ecuador, 2017, p. 64^[43]). The PND for 2021-2025 includes among its five pillars one dedicated to the ecological transition, with three objectives designed, among other things, to conserve, restore, protect and make sustainable use of natural resources, and to promote comprehensive management of water resources (Government of Ecuador, 2021, pp. 81-90^[46]). Among the policies that the Government is proposing to implement in line with these objectives is to "regulate the exploration for and exploitation of non-renewable natural resources, with the aim of minimising external social and environmental factors" (Government of Ecuador, 2021, p. 86^[46]).

Ecuador has also developed specific initiatives to tackle certain environmental issues. For example, in 2016, Ecuador presented an updated National Biodiversity Strategy (*Estrategia Nacional de Biodiversidad*, ENB) for 2015-2030 (Government of Ecuador, 2016^[198]). This strategy is based on the provisions of the Constitution related to the rights of nature and biodiversity but also seeks to implement international instruments such as the Convention on Biological Diversity (CBD), the CBD's Strategic Plan for Biodiversity 2011-2020 and its Aichi Targets, as well as the 2030 Agenda (Government of Ecuador, 2016^[199]). The ENB for 2015-2030 contains four strategic objectives: (i) mainstreaming biodiversity in policy management; (ii) reducing pressures and misuse of biodiversity; (iii) equitably sharing the benefits of biodiversity, taking into account specific details related to gender and interculturality; and (iv) strengthening knowledge management and capacities that promote innovation in biodiversity matters (Government of Ecuador, 2016, p. 152^[198]).

Furthermore, in 2020, governmental authorities signed the National Pact for the Sustainable Bioeconomy (*Pacto Nacional por la Bioeconomía Sostenible*) (Government of Ecuador, 2020^[200]). This pact promotes the strategic use of Ecuador's natural resources, encouraging entrepreneurial initiatives that favour their sustainable use and exploitation (Government of Ecuador, 2020^[200]). For instance, it reaffirms the commitment of various actors to generate proposals, build strategies and participate actively in the implementation of activities based on bio-production and agro-biodiversity. According to information provided by the MAATE during the preparation of the Review, as a result of this commitment, several governmental entities are about to sign the Intersectoral Framework Convention on the promotion of the bioeconomy (*Convenio marco intersectorial para el fomento de la bioeconomía*), and the process of preparing a bioeconomy policy has been launched, which includes the development of a White Paper and a National Bioeconomy Strategy (*Libro Blanco y Estrategia Nacional de Bioeconomía*) (Agence Française de Développement, 2022^[201]).

Despite this broad, diverse legal and policy framework to protect the environment, Ecuador has been the backdrop for major adverse environmental impacts associated with business activities, primarily in the extractive sector. These impacts have not only had consequences for nature, but have also affected local communities, as mentioned earlier and set out in greater detail in Section 3.3.3.

Ecuador should ensure that its legal and policy framework on the environment is effectively implemented to avoid adverse impacts related to business activities on the environmental rights recognised in the Constitution, in particular in the extractive sector. In this regard, based on the constitutional and legislative provisions establishing that companies must prevent and reduce environmental impacts through environmental control systems, Ecuador should continue to

encourage and support them to adopt responsible business practices focusing on due diligence. For this purpose, it might consider the possibility of including references to the OECD RBC instruments in relevant regulations and policies to help ensure that the RBC recommendations related to the environment are incorporated in companies' decision-making and risk management processes across supply chains. The OECD MNE Guidelines and the related Due Diligence Guidance are essential tools to prevent adverse environmental impacts and the loss of biodiversity related to business activities.

Institutional framework

In accordance with the Constitution,¹⁰⁰ the Organic Environmental Code establishes the Decentralised National Environmental Management System (*Sistema Nacional Descentralizado de Gestión Ambiental*), which involves and coordinates the various government entities with competence in environmental matter.¹⁰¹ Attributions regarding the protection of the environment are divided between the National Environmental Authority and the decentralised autonomous governments.¹⁰² The National Environmental Authority is the MAATE,¹⁰³ which, after various changes in the past few years, includes the former Water Secretariat (*Secretaría Nacional del Agua*, SENAGUA),¹⁰⁴ and the Agency for Water Regulation and Control (*Agencia de Regulación y Control del Agua*), the Agency for the Regulation and Control of Biosafety and Quarantine for Galapagos (*Agencia de Regulación y Control de la Bioseguridad y Cuarentena para Galápagos*), the National Institute of Biodiversity (*Instituto Nacional de Biodiversidad*, INABIO) and the National Institute of Meteorology and Hydrology (*Instituto Nacional de Meteorología e Hidrología*, INAMHI) (Government of Ecuador, 2021_[202]; 2020_[203]).

As the National Environmental Authority, the MAATE is the government entity in charge of issuing Ecuador's environmental policy, managing administrative authorisations in environmental matters, designing comprehensive remediation mechanisms for environmental damage and monitoring compliance with the remediation measures, as well as processing, investigating and resolving complaints and claims, among other functions.¹⁰⁵ The MAATE also administers the Unified System of Environmental Information (*Sistema Unico de Información Ambiental*, SUIA), which comprises information on the state and conservation of the environment and on the projects, works and activities that generate environmental risk or impact.¹⁰⁶ Via an electronic platform, companies present the studies and environmental management plans that they are obliged to carry out under environmental legislation, which are registered in the SUIA's environmental regularisation module (Government of Ecuador, n.d._[204]).

The Ministry has suffered significant budget cuts in recent years, going from a USD 24 million budget in 2019 to USD 22 million in 2020 (OECD, Forthcoming, 2023, p. 96_[31]). Moreover, the high turnover of Environment ministers has caused some concern in civil society regarding potential institutional and economic weakening of the Ministry (Mongabay, 2020_[205]).

Ecuador should ensure that the MAATE has sufficient resources to be able to perform its multiple functions in a constant manner over the long term, since this is fundamental to efficiently prevent and mitigate the actual or potential adverse impacts related to business activities on the environmental rights recognised in the Constitution.

Environmental justice

Ecuador's environmental legal framework contains provisions designed to guarantee access to environmental justice. In line with the granting of constitutional rights to nature, the General Organic Code of Proceedings (*Código Orgánico General de Procesos*, COGEP) establishes that nature can be represented in environmental harm proceedings by any natural or legal person or a group or the Office of the Ombudsman, who, furthermore, may act on his or her own initiative (Government of Ecuador, 2015_[206]).¹⁰⁷ The COGEP specifies that proceedings for environmental harm and for damage or harm

caused to people or their property as a consequence thereof should be brought separately and independently (Government of Ecuador, 2015^[206]).¹⁰⁸

People suffering damage or harm as a consequence of adverse environmental impacts can have recourse to various procedural safeguards established by the Constitution. For example, the Constitution provides for strict liability for environmental harm and that claims for its prosecution and punishment are not subject to any statute of limitations.¹⁰⁹ This means that victims of environmental harm can bring claims against those responsible at any given time, and only have to prove the existence of the harm, without having to prove the defendant's fault or the causal link between it and the resulting environmental harm.

Moreover, in 2008, the MAATE created a Social and Environmental Remediation Programme (*Programa de Reparación Ambiental y Social*, PRAS) to deal with cases of violations of environmental rights recognised in the Constitution and associated with business activities. According to its web page, the PRAS was created because “in the past, economic activities, such as hydrocarbon extraction, mining and other productive activities, left indelible traces in dozens of communities and in nature” (Government of Ecuador, n.d.^[207]). On this basis, the programme seeks to contribute to comprehensive reparation of natural heritage losses and living conditions of communities affected by environmental harm caused by the inadequate management of economic activities (Government of Ecuador, n.d.^[208]). For this purpose, the PRAS designs and validates plans for comprehensive reparation for adverse impacts on the environment and local communities, follows up and evaluates these plans and carries out prior and/or supplementary actions to ensure comprehensive reparation (Government of Ecuador, n.d.^[208]; Government of Ecuador, 2022, p. 15^[42]).

However, CSOs consider that victims of adverse environmental impacts in Ecuador caused by business-related operations face various obstacles in gaining access to reparation. Among these obstacles is the fact that judicial proceedings are often lengthy and complex, thus contributing to the impunity of those responsible for the harm and preventing reparation. One example of these difficulties is that of the community of San Pablo de Amalí, which has spent more than 15 years seeking to obtain reparation through various legal actions and proceedings for the adverse impacts allegedly associated with the operations of the Compañía Hidroeléctrica Hidrotambo (Hidrotambo) (Defensoría del Pueblo, 2021^[209]; Observatorio Jurídico de Derechos de la Naturaleza, n.d.^[210]). The community claims, in particular, that the company failed to comply with an order issued by the former Water Secretariat to preserve the ecological flow of the Dulcepamba River, limit the use of water and comply with mitigation measures during its operations, which led to the violation of its rights to property, water, life and personal integrity and to a healthy environment, among other rights (Defensoría del Pueblo, 2021^[209]). Recently, the DPE, the community of San Pablo de Amalí and several CSOs filed a petition against several government entities, including the MAATE, and Hidrotambo, before the Constitutional Court for having failed to preserve their rights and the rights of nature (Ecuador's Constitutional Court, 2019^[211]). The obstacles faced by the Kichwa people to obtain reparation for the damage caused by an oil spill in the Coca River are another example (see Box 3.9).

Box 3.9. The Coca River oil spill: challenges in accessing remedy for the Kichwa people

In April 2020, two damaged oil pipelines leaked thousands of barrels of crude oil into the Coca River, causing the largest oil spill in Ecuador in more than a decade and affecting the livelihoods of 27,000 people, mostly indigenous Kichwa. More than a year after the spill, the victims still await reparation.

The affected communities, supported by CSOs like the Confederación de Nacionalidades Indígenas de la Amazonía Ecuatoriana (CONFENIAE) and the Federación de Comunas Unión de Nativos de la Amazonía Ecuatoriana (FCUNAE), filed a lawsuit before the Ecuadorian courts in April 2020 against the two oil companies involved – Petroecuador and OCP Ecuador – as well as the MAATE and the

Ministry of Energy and Mines (*Ministerio de Energía y Minas*, MEM). The claimants allege violations to their constitutional rights to clean water, health, food and the rights of indigenous people as well as the rights of nature.

The claimants argue that the companies involved or the Government could have prevented or minimised the spill, since experts had made them aware of the erosion caused by the San Rafael waterfall. In addition, they claim that the Government and the companies failed to warn the affected communities in time for them to properly prepare.

In October 2020, a lower court judge dismissed the claim, finding that there had not been a violation of constitutional rights. A few months later, in March 2021, the Provincial Court of Orellana denied an appeal against the first judgment.

Following this decision, on the anniversary of the spill, hundreds of members of the affected communities organised a march before the Court of Orellana to demand justice for the harm caused by the oil spill. According to the affected communities, the adverse impacts to the Coca River have not been remediated and they have suffered major economic losses due to the oil spill, for which they have not received compensation.

In May 2021, following a petition by the claimants, Ecuador's Constitutional Court accepted the case on several grounds: (i) its seriousness, given the alleged lack of information which put the affected communities at risk, (ii) its novelty, because it will allow the Court to assess the alleged violation of the rights to a healthy environment and the rights of nature, and to develop the necessary parameters to prevent and, if needed, restore the vital cycles of nature and the environment; and (iii) its national importance, given that the matter relates to the rights of 109 ancestral communities impacted by the spill. At the time of writing of this Review, the proceedings before the Constitutional Court were still in progress.

Sources: (Ecuador's Constitutional Court, 2021^[212]; El Comercio, 2021^[213]; Mongabay, 2021^[214]; Alianza por los Derechos Humanos Ecuador, 2021^[215]; Reuters, 2020^[216]; Mongabay, 2020^[217]; Observatorio Jurídico de Derechos de la Naturaleza, n.d.^[218]).

To ensure effective access to remedy for adverse environmental impacts of business activities, Ecuador should seek to promote the effective and expeditious management by the courts of cases involving claims of environmental harm and ensure that the PRAS has the necessary resources to operate properly. It should also raise companies' awareness of the importance of providing for or cooperating in remediation when appropriate and promote the inclusion of remediation – including meaningful participation and consultation of affected stakeholders – as an inseparable part of companies' environmental risk management processes, as recommended by the OECD Due Diligence Guidance.

3.3.3. Specific cases of impacts of the extractive sector on the environment in Ecuador

As mentioned earlier, the extractive sector is a sector that has caused or contributed to major adverse impacts on the environment in Ecuador in recent decades (see Section 3.1.1). The oil and mining industry provide examples of the ways in which business activities can cause or contribute to cause adverse impacts on the environmental rights enshrined by the Constitution.

Oil industry

Oil extraction in Ecuador began in the early 1920s with the discovery of a rich oilfield beneath the Amazon region, leading to an oil boom and the transformation of the region (Center for Economic and Social Rights, 1994, p. 84^[219]). In 2016, 68% of the Ecuadorian Amazon region was covered by oil exploration areas, coinciding with protected areas and ancestral lands of indigenous peoples and nationalities (Lessmann

et al., 2016^[182]). These operations have had major adverse impacts on local communities and the environment.

Civil society and academia estimate that, between 1972 and 1994, more than 30 billion gallons of toxic waste and crude oil were discharged onto the land and into the waterways of the Ecuadorian Amazon region (Center for Economic and Social Rights, 1994, p. 85^[219]). For the period between 1994 and 2001, the estimate is 29,000 barrels of crude spilled in the Ecuadorian Amazon region, of which approximately 7,000 were never recovered from the surroundings (Lessmann et al., 2016^[182]). From 2001 to 2011, 464 accidental oil spills were identified and documented by the PRAS (Durango, 2019, p. 37^[220]). These spills are considered to have had significant adverse impacts on the environment and the health of local populations (Durango, 2019, pp. 10-13; 47^[220]) (Center for Economic and Social Rights, 1994, p. 88^[219]). Indeed, at the start of 2021, several European banks decided to pull out of financing trade in crude oil coming from Ecuador after the publication of a report by civil society highlighting its complicity in the pollution and destruction of the Amazonian forest (Reuters, 2021^[221]). Oil spills and related incidents causing adverse environmental and social impacts are often the result of corporate misconduct and poor technologies used by oil companies operating in the region and lack of monitoring and enforcement by government entities (Lessmann et al., 2016^[182]).

An example of this is the action filed with the Sucumbíos Provincial Court in 2020 by a group of nine girls from Sucumbíos and Orellana provinces against the MAATE and the MERNNR. The group claimed that gas flaring used in oil operations constituted a violation of their rights to live in a healthy and ecologically balanced environment (GARN, 2021^[222]). In January 2021, the Sucumbíos Provincial Court ruled in favour of the claimants and ordered the elimination of gas flaring from oil operations by 2030 (Provincial Court of Justice of Sucumbios, 2021^[223]). As a result of this decision, the MERNNR will no longer be able to issue permits for gas flaring, unless they use a technology that prevents contamination (El Universo, 2021^[224]).

Against this background, a number of actors, including the CERD and the United Nations Special Rapporteur on the Rights of Indigenous Peoples in Ecuador reported on the high number of conflicts between local communities and oil companies in Ecuador, associated with adverse environmental impacts (Observatorio de Conflictos Socioambientales del Ecuador, 2019^[225]; UN Human Rights Council, 2019, pp. 6-8^[95]; UNOHCHR, 2017, pp. 3-4^[98]). The case of the ongoing Kichwa people's lawsuit against OCP Ecuador and Petroecuador, following the largest spill in over a decade is a key example of these conflicts (see Box 3.9).

Mining industry

To diversify away from oil, in 2016 the mining sector was recognised by Ecuador as the key driver of the long-term transformation of the country's economy (Government of Ecuador, 2016^[226]). As a result, there has been a proliferation of mining exploitation projects in recent years with up to 275 concessions covering 14.8% of the national territory (IWGIA, 2020^[227]). Recently, the Government launched the 2020-2030 National Development Plan for the Mining Sector (*Plan Nacional de Desarrollo del Sector Minero 2020-2030*), which aims to increase mining exports and develop further mining areas (Government of Ecuador, 2020^[185]). However, as noted by the CERD in its Concluding Observations on the combined 23rd and 24th Periodic Reports of Ecuador in 2017, and by the CESCR in its Concluding Observations on the fourth Periodic Report of Ecuador in 2019, mining projects often pose risks to some protected or ecologically fragile areas of the country or to the territories of indigenous peoples and nationalities (UNOHCHR, 2017, pp. 3-4^[98]; CESCR, 2019, p. 10^[97]).

A recent example is the conflict resulting from the Rio Blanco project to exploit a silver and gold mine in the Cuenca region. Mining operations by the company Ecuagoldmining began in 2016 but were soon halted due to protests by local communities. In addition to the environmental impacts that the mine operations would have on the land, the affected communities argued that they had not been properly consulted. ECUARUNARI, an organisation representing 12 ethnic groups that belong to the Kichwa People, filed a

lawsuit with the Azuay Court of Justice, claiming that their right to be consulted prior to the development of extractive operations on their lands had been violated and that these operations would have adverse environmental impacts, including water pollution (Bilaterals.org, 2020^[228]). In May 2018, the mining operations were suspended following violent protests (El Comercio, 2018^[229]). A few months later, the Azuay Court of Justice ordered the immediate suspension of the mining operations given that the affected communities had not been consulted prior to the development of the project, thus invalidating the environmental permit (Provincial Court of Justice of Azuay, 2018^[230]). The mining company's appeal was rejected.

As with the oil industry, there are numerous conflicts between local communities and mining companies in Ecuador (Observatorio de Conflictos Socioambientales del Ecuador, 2019^[231]). These conflicts have influenced the design of policies on mining. In 2019, the MERNNR published the 2020-2030 National Development Plan for the Mining Sector, which is centred around six pillars, the second one being environmental and social sustainability through the adoption of good environmental practices and the development of areas of influence through participation and dialogue (Government of Ecuador, 2020, pp. 45-73^[185]). Also, in 2021, the Government issued an Action Plan for the mining sector (*Plan de Acción para el sector minero*), which aims to develop efficient, environmentally and socially responsible mining (Government of Ecuador, 2021^[104]).¹¹⁰ In this Plan, the Government undertakes to incentivise “the adoption of responsible social and environmental practices as well as absolute respect for labour rights and access to grievance mechanisms established within the national regulatory framework” (Government of Ecuador, 2021^[104]).¹¹¹

Ecuador should consider the possibility of requiring companies that operate in sectors where risks of adverse impacts on the environment are high, such as the extractive sector, to design and conduct due diligence processes in line with the OECD Due Diligence Guidance, and, in particular, the Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector. The implementation of the recommendations contained in this Guidance is key to embed environmental considerations into companies' risk management practices, and to ensure that engagement with local communities properly fulfils its function of avoiding and addressing adverse impacts. It also serves to encourage businesses' contribution to broader environmental objectives, such as the protection of human and nature rights defenders or the fight against climate change and biodiversity loss.

3.3.4. Impacts of business activities on climate change in Ecuador: mitigation and adaptation efforts

Ecuador's location and topography make the country highly vulnerable to the impacts of climate change (Government of Ecuador, 2021^[232]). The country's variety of geographical systems – from high altitude glaciers to rain forests in the Amazon – has already shown sensitivity to climate variability and long-term change (World Bank, n.d.^[233]). Although Ecuador is only responsible for 0.1% of total GHG emissions (Government of Ecuador, n.d.^[234]) (^[234]),¹¹² it is highly vulnerable to the impacts of climate change such as the intensification of extreme climatic events (e.g. the El Niño/Southern Oscillation, ENSO), sea level rise, increased retreat of glaciers and increased vulnerability to floods and prolonged droughts (World Bank, n.d.^[233]).

The Constitution is one of few constitutions in the LAC region to refer specifically to climate change mitigation (Government of Ecuador, n.d.^[235]). It provides that the State must “adopt adequate and transversal measures to mitigate climate change by limiting [GHG] emissions, deforestation and atmospheric pollution”. The Constitution also provides that the State must take measures to conserve forests and vegetation and promote energy efficiency, renewable energy and the use of clean, sound technologies.¹¹³

In 2009, climate change adaptation and the mitigation of its effects were declared as national priorities for Ecuador (Government of Ecuador, 2009^[236]). In 2010, the Inter-Agency Committee on Climate Change (*Comité Interinstitucional de Cambio Climático*, CICC) was set up to lead the management of climate change at the national level within the framework of existing international agreements (Government of Ecuador, 2010^[237]). Affiliated with the CICC, technical working groups provide technical assistance and input to decision-making, allowing for participation by public, private, academic, research, trade and other stakeholders (United Nations, 2019^[238]). The CICC is in charge of coordinating the National Strategy for Climate Change (*Estrategia Nacional Cambio Climático*), issued in 2013 (Government of Ecuador, 2013^[239]). This Strategy establishes guidelines for action to reduce GHG emissions in priority sectors, including agriculture, energy and waste management (Government of Ecuador, 2013, p. 17^[239]).

Tackling climate change has also been included as part of the PNDs. For example, one of the pillars of the 2021-2025 PND includes ecological transition and, regarding climate change, has the objective of promoting sustainable development models and applying climate change adaptation and mitigation measures (Government of Ecuador, 2021, pp. 81-90^[46]). In line with this objective, the Government is seeking, in particular, to “strengthen climate change adaptation and mitigation measures” and “implement practical environmental improvements with social and economic responsibility to foster awareness and sustainable production and consumption [...]” (Government of Ecuador, 2021, p. 87^[46]).

After a participative development process, Ecuador submitted its first Nationally Determined Contribution (NDC) in 2019, with unconditional and conditional GHG emission reduction targets for 2025, a mitigation and adaptation element and a gender focus (United Nations, 2019^[238]). To help achieve the targets set in the NDC, in 2021 the MAATE, through the Undersecretariat of Climate Change (*Subsecretaría de Cambio Climático*), launched the Ecuador Zero Carbon Programme (*Programa Ecuador Carbono Cero*, PECC) with the aim of directly reducing GHG emissions as well as developing offsetting options (Government of Ecuador, 2021^[240]; ^[241]). The PECC seeks to promote the adoption of climate change mitigation measures through the quantification, reduction and neutrality of GHG emissions generated in the day-to-day activities of various parties, including companies.¹¹⁴ Through this Programme, companies can access a portfolio of public and private initiatives being implemented in the country, in which they can participate to directly reduce, but also offset, their GHG emissions. Most of these initiatives are related to the conservation of forests, *páramos* (grassland-shrubland ecosystems found at high altitudes) and other ecosystems, and active or passive environmental restoration or clean energy production. In this way, the PECC seeks to contribute to the financial sustainability of conservation, ecosystem restoration, sustainable management and energy efficiency initiatives, among others (Government of Ecuador, 2021^[232]).¹¹⁵ Under the PECC, the MAATE has developed several “Punto Verde” environmental incentives to encourage companies to join the Programme (see Box 3.10).¹¹⁶

Box 3.10. “Punto Verde” environmental incentives for carbon quantification, reduction and neutrality

The Ecuador Zero Carbon Programme (PECC) allows companies participating in the programme that measure, reduce and/or offset their greenhouse gas (GHG) emissions to gain various certifications, depending on the measures they have taken and their effects on emissions.

These certifications fall within the general framework of the “Punto Verde” Ecuadorian environmental certification, which Ecuador has developed to provide an incentive to companies to implement good environmental practices and reduce pollution. The specific PECC attestations, which are granted by the Ministry of Environment, Water and Ecological Transition (*Ministerio del Ambiente, Agua y Transición Ecológica*, MAATE) in its capacity as the National Environmental Authority, are as follows:

- The “*Iniciativa Verde – Cuantificación Huella de Carbono*” (“Green Initiative – Carbon Footprint Quantification”) Mark: the first level of certification, granted for one year to companies demonstrating that they measure and publish information on their carbon footprint
- The “*Punto Verde – Reducción de Carbono*” (“Punto Verde – Carbon Reduction”) Certification: the second level of certification, granted for two years to companies demonstrating that they are reducing their carbon footprint by implementing mitigation measures (such as, for instance, cleaner production, energy efficiency, use of renewable energies, etc.)
- The “*Punto Verde – Carbono Neutralidad*” (“Punto Verde – Carbon Neutrality”) Certification: the third level of certification (which can be obtained only after the first two levels have been reached), granted for three years to companies demonstrating that they are reducing and offsetting their carbon footprint by implementing conservation, sustainable management and ecosystem restoration measures

On obtaining one of these certifications, companies gain various benefits, depending on the level achieved. For example, companies obtaining the “*Iniciativa Verde – Cuantificación Huella de Carbono*” Mark enjoy, among other things, public recognition and use of the Mark’s logo, whereas companies receiving the “*Punto Verde – Reducción de Carbono*” Certification also have access to other tax-related or honorary incentives, and those obtaining the “*Punto Verde – Carbono Neutralidad*” Certification have access to distribution services on international markets provided by the foreign trade authority, among other benefits.

Sources: (Government of Ecuador, 2021^[241]; ^[242]; 2015^[243]).

At the time of writing of the Review, the PECC was still a relatively new programme, and therefore it is not possible to know what effects it will have on the adoption of climate change mitigation measures by companies. According to information provided by the MAATE during the preparation of the Review, 214 companies have shown an interest in joining the PECC, and the MAATE recently received the first applications from companies for the “*Iniciativa Verde – Cuantificación Huella de Carbono*” Mark and the “*Punto Verde – Reducción de Carbono*” Certification.

To ensure that the efforts to incentivise businesses to adopt climate change mitigation measures yield results, Ecuador should inform business associations and individual companies about the certifications and incentives that exist to reward companies that take such measures. Ecuador should also seek to encourage companies to include climate change mitigation as part of their environmental risk management processes across their supply chains. The OECD Due Diligence Guidance is a reference framework for businesses to adapt and strengthen their existing risk management processes with respect to climate change, and therefore the implementation of the recommendations contained in this Guidance could be a key requirement for “Punto Verde” environmental certification.

Policy recommendations

11. Ensure that the environmental policy and legal framework is implemented efficiently so as to avoid adverse impacts related to business activities on environmental rights and support businesses in adopting responsible environmental practices focused on due diligence, by integrating references to OECD RBC instruments into relevant legislation and policies.
12. Ensure that the Ministry for the Environment, Water and the Ecological Transition (*Ministerio del Ambiente, Agua y Transición Ecológica*, MAATE) has sufficient resources

to exercise its functions in the long term, since this is essential to efficiently preventing and mitigating adverse impacts related to business activities on environmental rights.

13. Encourage the effective and prompt management by the courts of cases involving allegations of environmental harm, ensure that the Social and Environmental Remediation Programme (*Programa de Reparación Ambiental y Social*, PRAS) has sufficient resources, and raise awareness among businesses about the importance of providing for or cooperating in remediation and including remediation as part of their environmental risk management processes.
14. Consider the possibility of requiring companies that operate in sectors where risks of adverse impacts on the environment are high, such as the extractive sector, to design and conduct due diligence processes in order to embed environmental considerations into their risk management practices and promote their contribution to broader environmental objectives, such as the protection of human and nature rights defenders or the fight against climate change and biodiversity loss.
15. Inform business associations and individual companies about the certifications and incentives that exist to reward companies that take climate change mitigation measures, and encourage companies to include climate change mitigation as part of their environmental risk management processes across their supply chains.

3.4. Anti-corruption and integrity

The OECD MNE Guidelines emphasise that, alongside governments' efforts, the private sector should play a key role in preventing and combatting corruption. As highlighted in Chapter VII "Combating Bribery, Bribe Solicitation and Extortion" of the Guidelines, companies should not, directly or indirectly, offer, promise, give or demand a bribe or other undue advantage to obtain or retain business or other improper advantages, and should resist all bribery and extortion. To this end, Chapter VII calls on companies to develop and adopt adequate internal controls, ethics and compliance programmes, or measures for preventing and detecting corruption through risk-based due diligence. In this regard, the OECD Due Diligence Guidance for RBC provides practical guidance that can help businesses prevent and address risks of corruption that may be associated with their operations, supply chains or other business relationships.

3.4.1. Corruption in Ecuador: an acute problem for the business environment

As in other countries of the LAC region, corruption in Ecuador is an acute problem that has serious consequences for the country's economic development and growth, public governance and business environment. According to government data, corruption has cost the country over USD 70 billion in the past 14 years (SwissInfo, 2021^[244]).¹¹⁷ Ecuador's rankings in international corruption indices reflect the severity of the situation (see Table 3.1). In 2019, the country ranked 90th (out of 141 countries) in the Incidence of Corruption Index of the WEF's Global Competitiveness Report (WEF, 2019, p. 194^[245]). Likewise, one of Ecuador's worst scores in the World Justice Project's 2021 Rule of Law Index was for "Absence of Corruption" (94th out of 139 countries) (World Justice Project, 2021^[62]). Moreover, with a score of 1 (0 being the lowest possible and 9 the highest), Ecuador obtained the third-lowest score in the 2018 OECD Quality of Regulations Against Undue Influence Index. This index measures the existence and reach of lobbying regulations, and takes into account the transparency of influence-seeking and the regulation on conflicts of interest (OECD, 2020, p. 33^[22]).

Table 3.1. Ecuador's ranking in international corruption-related indices

Index	Ranking	Previous ranking
Incidence of Corruption Index (2019)	90 out of 141	97 out of 137 (2018)
Transparency International Corruption Perception Index (2020)	92 out of 180	93 out of 180 (2019)
WJP Rule of Law Index – Absence of corruption (2021)	94 out of 139	86 out of 128 (2020)
Capacity to Combat Corruption Index (2021)	8 out of 15	9 out of 15 (2020)

Sources: (WEF, 2017^[246]; Transparency International, 2019^[247]; 2020^[248]; AS/COA/Control Risks, 2020^[249]; World Justice Project, 2020^[250]; 2021^[251]; AS/COA/Control Risks, 2021^[252]; WEF, 2019^[245]).

Surveys of citizens and the private sector confirm these results (LAPOP - AmericasBarometer, 2019, pp. 23-27^[253]). Corruption continues to be perceived by the public in general and businesses as a major issue in Ecuador, despite anti-corruption government efforts over the past few years. Although Ecuador improved its rating in Transparency International's Corruption Perception Index – from 114th in 2018 to 105th in 2021 (out of 180 countries) – in 2020, 80% of the population continued to believe that corruption was widespread among public officials, up from 51% in 2014 (Transparency International, 2021^[254]; 2018^[255]). Likewise, the 2021 edition of the Latinobarómetro shows that 72% of the interviewees perceived that corruption had increased in the country, giving Ecuador the third-highest percentage in the region (Corporación Latinobarómetro, 2021^[256]) – a considerable rise from the 56% obtained in the 2018 edition of the Latinobarómetro (Corporación Latinobarómetro, 2018^[257]). In the same vein, only 28% of the interviewees believed that there had been progress in the fight against corruption in Ecuador since 2018 (Corporación Latinobarómetro, 2021^[256]). Corruption cases related to the mismanagement of public resources for the fight against the COVID-19 crisis may have contributed to the increase in citizens' perception of corruption, given that reports of corruption in the medical sector were reported to have increased in 2020 (SwissInfo, 2021^[244]; AS/COA/Control Risks, 2021, p. 22^[252]). The level of perceived corruption has also negatively influenced perceptions of the business environment, given that corruption can increase the costs and risks of operating in the country. In 2017, almost 50% of firms operating in Ecuador identified corruption as a major constraint, above the 45% average in the region (World Bank, 2017^[258]).

To address this situation and combat corruption, Ecuador has recently made some laudable efforts, which have been acknowledged in the 2021 Capacity to Combat Corruption (CCC) Index of the Americas Society, the Council of the Americas and Control Risks. The country's score increased by 14% between 2020 and 2021 (AS/COA/Control Risks, 2021, p. 22^[252]). The country obtained better scores than Argentina, Colombia or Mexico in the legal capacity category, and increased its scores related to the independence of anti-corruption agencies, the independence and efficiency of the chief public prosecutor and judiciary (AS/COA/Control Risks, 2021, p. 22^[252]). The 2021 report on Capacity to Combat Corruption also highlighted the efforts of the FGE's investigations, notably in relation to the corruption cases involving Petroecuador (AS/COA/Control Risks, 2021, p. 22^[252]).

3.4.2. Institutional, legal and policy framework for combatting corruption in Ecuador

Legal and policy framework

Ecuador has ratified a number of international anti-corruption conventions. It ratified the Inter-American Convention against Corruption in May 1997 and became a member of the Mechanism for Follow-Up on the Implementation of the Inter-American Convention Against Corruption (MESICIC) in 2001 (OAS, 2021^[259]). It also ratified the United Nations Convention against Corruption (UNCAC) in 2005 (UNODC, 2021^[260]). Ecuador has not yet adhered to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (OECD Anti-Bribery Convention), but steps have been taken to consider this possibility (Government of Ecuador, 2020^[261]).

According to Ecuador's Constitution, the State's primary duty is to guarantee the people's right to live in a democratic society free of corruption.¹¹⁸ The Constitution also provides that it is the responsibility of the citizens to report and fight corruption.¹¹⁹ However, Ecuador does not have specific anti-corruption and integrity legislation. The Law on Citizen Participation (*Ley Orgánica de Participación Ciudadana*, LOPC) aims to promote, encourage and guarantee citizens' rights of participation and social control, notably to prevent corruption (Government of Ecuador, 2010_[262]). The Law on Transparency and Access to Public Information (*Ley Orgánica de Transparencia y Acceso a la Información Pública*, LOTAIP) guarantees and regulates the right of access to public information for public and private institutions that provide public services or have access to public spending, and therefore plays a key role in detecting cases of corruption (Government of Ecuador, 2004_[263]). The COIP, which was reformed in 2021, includes all sanctions related to corruption (Government of Ecuador, 2014_[68])¹²⁰. It punishes bribery,¹²¹ extortion,¹²² influence peddling¹²³ and illicit enrichment,¹²⁴ among other offences.

Beyond the legal framework, Ecuador's efforts to address corruption in recent years have been reflected in its PNDs. The eighth objective of the 2017-2021 PND was to promote transparency and co-responsibility for a new social ethic (Government of Ecuador, 2017_[43]). This objective prioritised strengthening and promoting transparency and combatting corruption in all its forms (Government of Ecuador, 2017, p. 103_[43]). To these ends, it stressed the need for the private sector to be actively involved in the fight against corruption and advocated for the adoption by businesses of principles and mechanisms that prevent corruption and promote business ethics and integrity (Government of Ecuador, 2017, p. 102_[43]). The new 2021-2025 PND continues to include a commitment of promoting transparency and fighting corruption, including through a dedicated objective on public ethics, transparency and combatting corruption, but does not include specific targets for the private sector (Government of Ecuador, 2021, p. 97_[46]).

Ecuador also has a National Public Integrity and Anti-Corruption Plan for 2019-2023 (*Plan Nacional de Integridad Pública y Lucha contra la Corrupción*, PNIPLC) (Government of Ecuador, 2019_[264]). The PNIPLC sets out the main causes of corruption involving public and private entities that use government resources, and lists the measures to address them, such as developing a public service code of ethics and other tools for risk management to prevent corruption (Government of Ecuador, 2019_[264]). It also advocates for stronger public and private interinstitutional coordination and cooperation mechanisms to develop preventive and anti-corruption initiatives (Government of Ecuador, 2019_[264]). However, the PNIPLC is limited to including measures relating to entities that provide public services, and has had very little outreach towards civil society, businesses and even most actors from the public sector (OECD, 2021, p. 34_[265]). In November 2021, the Government presented the General Guidelines for its future National Anti-Corruption Policy (*Lineamientos Generales de la Futura Política Nacional Anticorrupción*) (Government of Ecuador, 2021_[266]). According to these Guidelines, the Government proposes to build an anti-corruption policy in the coming years, through a multi-stakeholder public consultation. This will result in a National Anti-Corruption Strategy (*Estrategia Nacional Anticorrupción*) that will incorporate all the relevant aspects of the PNIPLC (Government of Ecuador, 2021, p. 3_[266]). The Guidelines establish several objectives for the National Anti-Corruption Policy and emphasise the need for anti-bribery regulations for the private sector, and the ethical management of companies based on international best practice (Government of Ecuador, 2021, p. 5_[266]).¹²⁵

In July 2022, the Anti-Corruption Policy Secretariat (*Secretaría de Política Pública Anticorrupción*, SPPA) published the National Anti-Corruption Strategy resulting from the Guidelines. The Strategy defines eight national strategic focus areas for formulating an anti-corruption action plan, with their expected results and objectives (Government of Ecuador, 2022, pp. 9, 48_[267]). A notable aspect of that Strategy is that, as a way of reducing corruption, it seeks, in particular, "to promote the adoption of ESG (environmental, social and governance) criteria by companies operating in business sectors with high foreign investment", and to "formulate a strategy for mitigating and/or minimising the risks of corruption to which the value chains of international business operations are exposed" (Government of Ecuador, 2022, pp. 66-67_[267]). Likewise,

in its recommendations, the Strategy envisages signing Integrity Pacts with companies in connection with public procurement and the certification of private-sector good practices for combatting corruption, in cooperation with business associations (Government of Ecuador, 2022, pp. 74-76_[267]). The inclusion of business-related targets and recommendations in the National Anti-Corruption Strategy is a positive development, as private-sector involvement is a key factor in the fight against corruption.

Based on the contents of the recent National Anti-Corruption Strategy, Ecuador should ensure that the private sector is actively involved and can effectively participate in the implementation of this instrument for combatting corruption. In particular, to implement its targets and recommendations pertaining to companies, Ecuador should seek to take more specific measures to promote and verify the development, adoption and implementation by companies of adequate internal controls, ethics and compliance programmes, or measures to prevent and detect corruption acts through risk-based due diligence.

Institutional framework

In recent years, Ecuador has made significant progress towards establishing an institutional framework for preventing and combatting corruption, but coordination between state agencies has been a challenge, and Ecuador's institutional framework on integrity and anti-corruption remains fragmented (OECD, 2021, pp. 9-10_[265]). The entities dedicated to combatting corruption and promoting integrity in Ecuador are divided between the executive, judicial and transparency and social control powers – referred to as branches (see Table 3.2).¹²⁶

Table 3.2. State entities with responsibilities for combatting corruption and promoting integrity

	Entity	Mandate and main areas of responsibility
Executive Branch	Anti-Corruption Policy Secretariat (under the Presidency of the Republic) ¹²⁷	The Anti-Corruption Policy Secretariat (SPPA), created in May 2022, is the entity with responsibility for designing and coordinating, managing, monitoring and evaluating the implementation of policy on public integrity and anti-corruption, as well as designing a national system for public integrity and anti-corruption in the public sector, and the design, issuance, follow-up, monitoring and evaluation of implementation of the National Public Integrity and Anti-Corruption Strategy. It also has responsibility for coordinating cooperation efforts between state institutions and for creating interinstitutional spaces to encourage the implementation of anti-corruption strategies, among other tasks.
Judicial Branch	Judicial Council	The Judicial Council is the entity with responsibility for the Government and administration, supervision and discipline of the Judicial Branch. It defines and enforces policy aimed at improving and modernising the judicial system and oversees transparency and efficiency in the Judicial Branch. In this regard, the primary focus area of the Judicial Branch's Strategic Plan for 2021-2025 is to promote anti-corruption measures through various targets and strategies.
	Office of the Prosecutor General	The Office of the Prosecutor General (FGE) is the entity responsible for undertaking pre-trial investigations and supervising criminal proceedings, as well as filing charges to bring cases to court. It has three specialist units that are responsible for corruption-related offences: <ul style="list-style-type: none"> • The Transparency and Anti-Corruption Unit, which investigates acts of corruption and acts that undermine transparency in public life. • The Public Administration Unit, responsible for investigating crimes of embezzlement, bribery, illicit enrichment and extortion. • A specialist unit in charge of corruption cases relating to the COVID-19 crisis.
	Judicial Unit and Specialist Criminal Guarantees Tribunal for Hearing Corruption and Organised Crime Cases	The Judicial Unit and the Specialist Criminal Guarantees Court for Hearing Corruption and Organised Crime Cases are the competent judicial bodies for investigating, gathering evidence and resolving crimes relating to corruption and organised crime. This concerns the following offences of corruption: embezzlement, illicit enrichment, collusion, bribery, influence peddling, offering to engage in influence peddling, etc.

Transparency and Social Control Branch	Council for Citizen Participation and Social Control	The Council for Citizen Participation and Social Control (<i>Consejo de Participación Ciudadana y Control Social</i> , CPCCS) is the entity responsible for promoting and guaranteeing transparency and citizen participation in the fight against corruption. It is in charge of receiving and investigating complaints from the public about acts or omissions that may affect public participation or generate corruption. The reports from these investigations, which indicate evidence of liability, are communicated to the Technical Secretariat for Transparency and Anti-Corruption (<i>Secretaría Técnica de Transparencia y Lucha contra la Corrupción</i>) within the CPCCS, with recommendations on the most appropriate administrative and judicial response. The CPCCS intervenes as a procedural party in the cases brought as a result of its investigations. ¹²⁸
	Comptroller General of the State	The Comptroller General of the State (<i>Contraloría General del Estado</i> , CGE) is responsible for monitoring the efficient use of public resources. It leads the financial control framework, consisting of internal and external audits, as well as internal monitoring of public institutions and private entities using government resources, so that they carry out their activities responsibly, transparently and fairly. For example, it has the authority to investigate cases of overpricing in public procurement. ¹²⁹ The CGE can also determine civil and administrative liability, as well as gather evidence of criminal liability for aspects within its competence, to the extent this does not overlap with the FGE's authority in this area.
	Office of Ombudsman	The Office of the Ombudsman (DPE), as the National Institution for Human Rights and Nature, is responsible for safeguarding the rights of people and of nature, and ensuring these rights are promoted and protected. ¹³⁰ Its responsibilities include initiating measures for compulsory and immediate compliance on the protection of rights, seeking legal remedies and sanctions from the appropriate authority in cases of non-compliance, and investigating and ruling on actions or omissions by natural or legal persons providing public services (see Section 3.1.1).
	Superintendencies	The Superintendencies are technical bodies of surveillance, auditing, intervention, and monitoring of economic, social, and environmental activities and services provided by public and private entities, in order to ensure that they are undertaken in compliance with the corresponding legislation and performed in the public interest. There are seven separate Superintendencies for: (i) companies, securities and insurance; (ii) banks; (iii) the popular and solidarity-based economy; (iv) information and communication; (v) telecommunications; (vi) control of market power; and (vii) land use planning, land management and land use.

Sources: (OECD, 2021^[265]; Government of Ecuador, 2019^[268]; 2021^[269]; 2022^[270]; n.d.^[157]) (Government of Ecuador, n.d.^[271]) (Government of Ecuador, 2020^[272]) (2021^[241]) (241) (Fundación Ciudadanía y Desarrollo, 2021, p. 10^[273]) (Government of Ecuador, 2008^[117]).

There have been various initiatives by the Government in recent years in an effort to improve coordination between the various government entities working on anti-corruption and promoting integrity. For example, the Front for Transparency and the Fight against Corruption (*Frente de Transparencia y Lucha contra la Corrupción*), comprising representatives from the executive branch and from civil society, was created in 2017 (Government of Ecuador, 2017^[274]). Its purpose was to propose policies, strategies and mechanisms for the prevention of corruption and promotion of transparency in the public and private sectors. However, the Front was dissolved five months after it was created, and its recommendations aimed at reinforcing coordination mechanisms by creating a National Coordination and Control System (*Sistema Nacional de Coordinación y Control*) did not lead to any reforms (OECD, 2021, p. 24^[265]). One year later, in 2018, the creation of an Interinstitutional Roundtable on Anti-Corruption (*Mesa interinstitucional para combatir la corrupción*) was announced. This roundtable, which was to include representatives from all branches of government, failed to materialise (OECD, 2021, p. 24^[265]). Later, in 2019, with the support of the UN, the International Experts Commission for the Fight Against Corruption in Ecuador (*Comisión de Expertos Internacionales de Lucha contra la Corrupción en Ecuador*, CEICCE) was created (Government of Ecuador, 2019^[275]; ^[276]). The CEICCE's role is to support governmental efforts to combat corruption, strengthening the institutions tasked with this topic, coordinating with civil society and providing technical support on high-impact corruption cases. In August 2019, the CEICCE and FGE signed a cooperation and collaboration agreement, through which they agreed that the CEICCE would assist the FGE in investigating cases of bribery and corruption (Government of Ecuador, 2019^[277]). However, according to information provided by the SPPA during the preparation of this Review, the CEICCE ceased to exist in 2020 because the deadlines for its entry into operation had expired.

More recently, in early 2021, the Judicial Council invited the heads of the Ministry of Interior (*Ministerio de Gobierno*), the National Court of Justice (*Corte Nacional de Justicia*), the DP and the Financial Analysis

Unit (*Unidad de Análisis Financiero*, UAFE) to create a new “Interinstitutional Roundtable for the Fight against Corruption” (*Mesa Interinstitucional de Lucha contra la Corrupción*) (Government of Ecuador, 2021_[278]). The purpose of this new roundtable is to implement interinstitutional cooperation mechanisms focused on critical and structural problems in the exercise of criminal action, but the FGE decided to opt out of the initiative (La Hora, 2021_[279]). According to information provided by the Judicial Council during the preparation of this Review, the roundtable met regularly in 2021. Finally, the General Guidelines on the future National Anti-Corruption Policy, presented in late 2021, envisage the creation of a new interinstitutional anti-corruption commission in which business associations and civil society can participate as observers (Government of Ecuador, 2021, pp. 21-24_[266]). The National Anti-Corruption Strategy, published by the SPPA in July 2022, provides for the creation of a Commission for the Prevention of Corruption in the Public Sector (*Comisión Nacional Anticorrupción*, CNACE). The commission will, among other functions, be responsible for supervising, coordinating and evaluating the implementation of the National Anti-Corruption Strategy and coordinating the anti-corruption policies of the different branches of government to ensure due coordination and implementation (Government of Ecuador, 2022, p. 70_[267]). It is expected that this Commission will consist of representatives from different government entities¹³¹ and that it will have representatives from civil society and employer and employee associations, among others, as observers¹³² (Government of Ecuador, 2022, pp. 70-71_[267]).

Ecuador has, on several occasions, tried to improve coordination between government entities with responsibilities related to anti-corruption and the promotion of integrity. The recent plans for the CNACE’s creation are the most recent example of its efforts. As stressed in the OECD Study on Public Integrity in Ecuador, continuous changes in strategy in this area have so far prevented these attempts from bearing fruit (OECD, 2021_[265]). Consequently, the Government still faces major challenges in coordinating and applying anti-corruption and integrity policies, and in promoting and coordinating broader initiatives that involve the private sector and civil society.

Ecuador should build on the efforts already made to promote interinstitutional cooperation in the anti-corruption and integrity field to establish a robust interinstitutional framework that would allow – for example, through the National Anti-Corruption Commission – to coordinate and build synergies between the various competent government entities in the long term. Ecuador should consider the possibility, in building that framework, of involving the private sector, creating formal links between the National Anti-Corruption Commission and private-sector representatives, including SMEs, to ensure their effective participation in the implementation of the National Anti-Corruption Strategy.

3.4.3. Specific legal framework and initiatives to foster private-sector involvement in combatting corruption in Ecuador

To combat corruption, private-sector involvement is vital. Ecuador has begun taking measures to foster private-sector involvement in combatting corruption in recent years, encouraging enterprises to prevent and detect corruption, and applying sanctions in the event of corruption.

Prevention and punishment of corruption in the private sector

The Corporate Law (*Ley de Compañías*) does not deal directly with matters related to the fight against corruption, with the exception of the requirement to provide – each year – the Companies Superintendency with their lists of administrators, legal representatives, partners and shareholders, in accordance with international standards of transparency in tax matters and the fight against illicit activities (Government of Ecuador, 2021_[280]).¹³³ However, the 2021 Law Reforming the Comprehensive Criminal Code in relation to Anti-Corruption (*Ley Orgánica Reformatoria del Código Orgánico Integral Penal en Materia de Corrupción*) introduces important normative changes related to combatting corruption in the private sector (Government of Ecuador, 2021_[281]).¹³⁴

Prior to 2021, acts of corruption committed by companies in the private sphere were not punished by the COIP. The reform introduced a definition of acts of corruption in the private sector, criminalising them and establishing their punishment. The COIP now defines acts of corruption in the private sector as intentionally accepting, receiving or requesting, or promising, offering or granting – whether directly or indirectly – donations, gifts, presents, promises, rights, fees, contributions, income, interest, advantages, salaries, gratuities, immaterial benefits or undue economic benefits, or other types of material property, as well as omitting or committing an act that favours oneself or a third party, in the course of economic, financial or commercial activities.¹³⁵ Both natural persons and legal persons can be punished for these acts of corruption.¹³⁶ These acts are punished with imprisonment of up to seven years and a fine of up to 1,000 basic salary units, i.e. up to USD 400,000.¹³⁷ The penalties applicable to companies include dissolution or liquidation and a fine ranging from 500 to 1,000 basic salary units, i.e. up to USD 400,000.¹³⁸

The COIP provides that the penalties imposed on companies may be reduced if there are mitigating circumstances. Such mitigating circumstances include: (i) reporting or confessing to committing the offence; (ii) cooperating with the investigation; (iii) providing full compensation for the harm caused by the crime; and (iv) having implemented integrity systems, standards, compliance, prevention, direction and/or supervision programmes and/or policies.¹³⁹ The COIP specifies that such systems, rules, programmes and/or policies must incorporate the following minimum requirements to qualify as a mitigating circumstance:¹⁴⁰

- Identification, detection and management of activities that present a risk;
- Internal controls with those responsible for processes that present a risk;
- Ongoing internal supervision and monitoring, as well as independent evaluations of systems, programmes and policies, protocols and procedures for adopting and implementing corporate decisions;
- Financial management models;
- Whistleblowing channel;
- Code of Ethics;
- Staff training programmes;
- Internal investigation mechanisms;
- Obligation to inform the compliance officer about possible risks or breaches;
- Rules for disciplinary action for breaches of the system; and
- Know Your Customer and Due Diligence programmes.

According to information provided by the FGE and the Judicial Council during the preparation of the Review, there is no regulation clarifying what these minimum requirements should include. Nor have initiatives to incentivise and support companies in designing, adopting and implementing these different elements been developed, as has been done in Mexico in a similar context (see Box 3.11).

Box 3.11. Mexico's Business Integrity Registry

The Business Integrity Registry (*Padrón de Integridad Empresarial*, PIE) is an initiative developed by the Government of Mexico in cooperation with business associations and civil society representatives to take preventive measures in combatting corruption. It aims to offer incentives that encourage companies to adopt integrity programmes and good business practices in accordance with the provisions of the General Administrative Responsibility Law (*Ley General de Responsabilidad Administrativa*, LGRA). To this end, the PIE awards certification to companies that meet a series of

requirements designed to determine whether they have the necessary tools and processes to prevent corruption.

To obtain the Business Integrity Label, companies must register on the PIE's digital platform and submit information that demonstrates they have the appropriate tools and processes to prevent corruption. This includes an integrity programme in accordance with Article 25 of the LGRA, as well as good environmental, labour and corporate governance practices. The information to be submitted pertains to the following five modules: (i) contact person for the registration process; (ii) company; (iii) compliance of the company's integrity programme with Article 25 of the LGRA, as well as its practices on environmental protection, social impact and commitment to the 2030 Agenda; (iv) compliance with the legal obligations regarding labour security (including gender equality, inclusion and non-discrimination); and (v) compliance with the legal obligations relating to taxation, social security, retirement and housing. The third module on the compliance of the companies' integrity programmes with Article 25 of the LGRA is linked to a self-diagnostic tool that allows companies to evaluate the level of implementation of their integrity programme and the requirements they must meet to make progress in this area.

To help companies to adopt and implement the required tools and practices, the SFP has developed model documents and processes for the different key elements of the integrity programme mentioned in Article 25 of the LGRA, namely (i) code of conduct; (ii) whistleblowing mechanism; (iii) risk control system; (iv) risk assessment system; and (v) anti-corruption guide. These model documents and processes are made available to companies on the PIE's digital platform, together with information on social responsibility and specific RBC issues (respect for human rights, environmental protection, promotion of diversity, inclusion and gender equality, etc.).

Sources: (Government of Mexico, 2021^[282]; ^[283]; ^[284]; ^[285]; Government of Mexico, 2021^[286]).

In addition, aside from the provisions of the COIP referred to above, and although the National Anti-Corruption Strategy provides for the creation of a good practices label for preventing corruption for the private sector, at the time of writing, no other regulations, mechanisms or incentives existed in Ecuador that had been developed by the Government to encourage and support companies in developing, adopting and implementing internal controls, ethics and compliance programmes, or measures for preventing and detecting corruption through risk-based due diligence. There have, however, been some private-sector initiatives in this area. For example, in 2019, the Ecuador Chapter of the International Chamber of Commerce (ICC) created an Integrity and Anti-Corruption Commission (ICC Ecuador, n.d.^[287]). This Commission consists of representatives from the private sector, CSOs and academia, and aims to promote integrity and the fight against corruption in companies through targeted policies and tools for the business sector (OECD, 2021, p. 33^[265]).

Ecuador should consider the possibility of intensifying its efforts to encourage companies to prevent corruption. Based on the National Anti-Corruption Strategy and the recent reform of the COIP, Ecuador could, in collaboration with the private sector, develop initiatives to support companies to design and implement the different minimum requirements that must include their integrity systems, standards, compliance, prevention, management and/or oversight programmes and/or policies, in accordance with the provisions of the COIP. To this end, Ecuador could develop awareness-raising and capacity-building programmes for companies on the OECD RBC instruments and, in particular, the OECD Due Diligence Guidance for RBC, which is a key tool for identifying, detecting and managing activities in which risks arise, and for implementing due diligence processes, as required by the COIP and provided for in the National Anti-Corruption Strategy.

Detecting corruption in the private sector

Another important aspect of combatting corruption in the private sector is detecting cases of corruption in companies. The COIP acknowledges this, as it includes whistleblowing channels in the minimum requirements that the integrity systems, standards, programmes and/or compliance, prevention, management and/or oversight policies and/or programmes of companies must cover to be considered as a mitigating circumstance allowing for a reduction of penalty if found liable for acts of corruption.¹⁴¹ Nonetheless, to be efficient, the whistleblowing channels must be accompanied by measures to protect people who use these channels to report corruption. In recent years, Ecuador has taken measures to protect whistleblowers in general. However, these measures do not appear to address the specific risks of reprisals that whistleblowers in the private sector may face.

Under the Constitution, the Council for Citizen Participation and Social Control (*Consejo de Participación Ciudadana y Control Social*, CPCCS) is responsible for protecting people who report corruption.¹⁴² However, a recent civil society organisation report found that the CPCCS lacked the means to fulfil this mission (Fundación Ciudadanía y Desarrollo, 2021, p. 37_[273]). According to the report, in practice, the CPCCS only receives complaints from citizens and, if needed, helps them to refer their case to the System for the Protection and Assistance of Victims and Witnesses in Criminal Proceedings (*Sistema Nacional de Protección y Asistencia a Víctimas, Testigos y Otros Participantes en el Proceso Penal*, SPAVT), managed by the FGE,¹⁴³ which focuses mainly on protecting the physical integrity of victims and witnesses (Fundación Ciudadanía y Desarrollo, 2021, p. 37_[273]).

The reform of the COIP, as referred to above, sought to promote the detection of corruption through whistleblowing. The COIP now establishes that it is the duty of citizens to report a suspected crime of embezzlement, illicit enrichment, bribery, collusion, influence peddling, offers of influence peddling, identity theft, overpricing in public procurement, as well as corruption in the private sector, to the competent authorities.¹⁴⁴ To encourage the reporting of these offences, whistleblowers may receive financial compensation proportional to the value of any assets recovered – up to 20% of their value.¹⁴⁵ The COIP also specifies that information regarding the identity of the person reporting such offences will be kept confidential, to protect their physical, psychological and material integrity, as well as their working conditions, and that the person may apply for SPAVT support.¹⁴⁶ Beyond these provisions of the COIP and the possibility of referring their case to the SPAVT, there is no framework in Ecuador for the comprehensive protection of whistleblowers, something that is crucial to promote the detection of corruption offences (OECD, 2016, p. 21_[288]). In particular, Ecuador does not have any specific law that offers comprehensive protection against any form of reprisal to employees that, in good faith and on reasonable grounds, report suspected acts of corruption by other company employees, companies or subcontractors.

Ecuador should consider the possibility of taking additional measures to encourage companies to detect corruption. Based on the reform of the COIP, Ecuador could develop a framework that promotes the creation of easily accessible channels for reporting corruption acts in the private sector within companies, but also externally to the competent authorities. This framework should also guarantee that company employees who report, in good faith and on reasonable grounds, suspected corruption acts by other employees of the company, other companies or subcontractors, can benefit from comprehensive protection against all forms of reprisals.

Policy recommendations

16. Ensure that the private sector is actively involved and can effectively participate in the implementation of the National Anti-Corruption Strategy, taking specific measures to promote and verify the development, adoption and implementation by companies of

adequate internal controls, ethics and compliance programmes, or measures to prevent and detect corruption through risk-based due diligence.

17. Establish a robust interinstitutional framework allowing – for example, through the National Anti-Corruption Commission – to coordinate and build synergies between the various competent government entities, and involve the private sector to ensure its effective participation in the implementation of the National Anti-Corruption Strategy.
18. Reinforce efforts to encourage companies to prevent corruption, developing initiatives to support them to adopt the different minimum requirements that must include their integrity systems, standards, compliance, prevention, management and/or oversight programmes and/or policies, in accordance with the provisions of the COIP, through awareness-raising and capacity-building programmes on the OECD RBC instruments, and particularly the Due Diligence Guidance for RBC.
19. Take additional measures to encourage companies to detect corruption, developing a framework that promotes the creation of easily accessible channels for reporting corruption acts in the private sector, and guarantees that company employees who report, in good faith and on reasonable grounds, suspected corruption acts by other employees of the company, other companies or subcontractors, can benefit from comprehensive protection against all forms of reprisals.

4 Leveraging and incentivising Responsible Business Conduct in Ecuador

In addition to regulating and enforcing in support of RBC, governments can promote and enable RBC through the integration of considerations relating to RBC into policy areas that have a bearing on the conduct of businesses. To build an enabling environment that encourages businesses to act responsibly, it is fundamental that governments promote policy coherence and ensure alignment of policies relevant to RBC (OECD, 2015^[1]). Ecuador can take steps in this direction by integrating considerations relating RBC into its operations as an economic actor and in its economic policies that contribute to shape business conduct.

4.1. Exemplifying RBC in the Government's operations as an economic actor

To promote and enable responsible business practices, it is key that governments lead by example and follow RBC principles and standards in their role as economic actors or in their commercial activities (OECD, 2015^[1]). By so doing, they can encourage RBC and enhance the legitimacy of RBC policies. Ecuador could lead by example by integrating considerations relating to RBC into its activities as procurer of goods, services and works, and as owner of enterprises.

4.1.1. Incorporating considerations relating to RBC in Ecuador's public procurement

Public procurement is a strategic instrument and lever for achieving policy goals. These goals can include stimulating innovation, promoting green public procurement and the circular economy, supporting access to public procurement contracts for SMEs or promoting RBC (OECD, 2020^[289]).

“Value for money” is a fundamental principle underpinning public procurement. In the context of public procurement, value for money means the “most advantageous combination of cost, quality and sustainability to meet defined requirements” (MAPS, 2018^[290]). The economic argument has been at the forefront of government considerations given budget pressures and citizens demanding accountability for public spending. However, “value” increasingly includes broader objectives, including environmental and social objectives (OECD, 2020^[289]).

In recent years, there has been growing awareness of the potential risks of human and labour rights abuses in global supply chains, especially risks related to child labour, forced labour or modern slavery and human trafficking. This has resulted in growing calls for governments and business to take greater responsibility for their purchasing decisions and actions (OECD, 2020^[289]).

The PFI highlights that governments can promote RBC by including public procurement criteria related to RBC (OECD, 2015^[1]). The 2015 OECD Recommendation of the Council on Public Procurement provides guiding principles for countries on how to strike the right balance for public procurement systems that

support both achieving economic goals and furthering environmental and social objectives (OECD, 2015_[291]). The Recommendation identifies the steps to be taken whenever such objectives are pursued (see Box 4.1).

Box 4.1. OECD Recommendation on Public Procurement: the principle of balance

The Council

V. RECOMMENDS that Adherents recognise that any use of the public procurement system to pursue secondary policy objectives should be balanced against the primary procurement objective.

To this end, Adherents should:

- (i) Evaluate the use of public procurement as one method of pursuing secondary policy objectives in accordance with clear national priorities, balancing the potential benefits against the need to achieve value for money. Both the capacity of the procurement workforce to support secondary policy objectives and the burden associated with monitoring progress in promoting such objectives should be considered.
- (ii) Develop an appropriate strategy for the integration of secondary policy objectives in public procurement systems. For secondary policy objectives that will be supported by public procurement, appropriate planning, baseline analysis, risk assessment and target outcomes should be established as the basis for the development of action plans or guidelines for implementation.
- (iii) Employ appropriate impact assessment methodology to measure the effectiveness of procurement in achieving secondary policy objectives. The results of any use of the public procurement system to support secondary policy objectives should be measured according to appropriate milestones to provide policy makers with necessary information regarding the benefits and costs of such use. Effectiveness should be measured both at the level of individual procurements, and against policy objective target outcomes. Additionally, the aggregate effect of pursuing secondary policy objectives on the public procurement system should be periodically assessed to address potential objective overload.

Source: (OECD, 2015_[291]).

Public procurement as a lever for RBC in Ecuador

In Ecuador, public procurement accounted for 14.3% of government expenditure (i.e. the State's general budget) and 5.2% of GDP in 2020 (Government of Ecuador, 2020_[292]). In OECD countries, the average is higher, with public procurement accounting for approximately 29% of general government expenditure in 2020 and 12.6% of GDP in 2019 (OECD, 2021_[293]).

Public procurement in Ecuador is regulated by the Law on the National Public Procurement System (*Ley Orgánica del Sistema Nacional de Contratación Pública*, LOSNCP) and its General Regulations. The law sets basic principles for public procurement: legality, fair treatment, equality, quality, opportunity, competition, transparency, publicity and national participation (LOSCNP, Article 4).

The National Public Procurement Service (*Servicio Nacional de Contratación Pública*, SERCOP)¹⁴⁷ is the technical and regulatory body for the National Public Procurement System (*Sistema Nacional de Contratación Pública*, SNCP) that ensures compliance with its guiding principles and objectives. SERCOP's mandates focus on developing and managing Ecuador's Official Public Procurement System (*Sistema Oficial de Contratación Pública del Ecuador*, SOCE), setting policy and the terms of national public procurement, and exercising the control, monitoring and evaluation actions of the SNCP. SERCOP also issues administrative rules, manuals and other instructions relating to the LOSNCP and ensures they are applied. Finally, SERCOP provides training to contracting entities and to suppliers on how to use the procurement system, its tools and instruments, and on the different laws and regulations applicable.

The framework for RBC in public procurement in Ecuador

Ecuador's framework for RBC in public procurement includes basic aspects that seek to enable responsible public procurement. However, its impact is hindered by an absence of policy documents that would enable strategic public procurement, and the adoption of considerations relating to RBC (responsible public procurement).

Ecuador has yet to develop a strategy or plan on any aspects related to the integration of considerations related to RBC into public procurement, or on sustainable or strategic procurement specifically. The expressions "strategic public procurement" and "sustainable public procurement" tend to be used synonymously. These two expressions refer to public procurement that serves to achieve strategic policy objectives beyond the main objectives of public procurement: for example, optimising public resources and efficiency. The promotion of considerations related to RBC is part of the strategic and sustainable provisions that can be integrated into public procurement (responsible public procurement). In developing such an approach, Ecuador has been working with partners at regional level, for example as part of the Inter-American Network on Government Procurement (INGP), the Organization of American States, the UN Environment Programme (UNEP) and bilateral development cooperation. Part of these efforts have resulted in the publication of studies on sustainable public procurement (Government of Ecuador, n.d.^[294]) and the exchange of good practices. In addition, at the time of writing, Ecuador was undergoing a "MAPS" (Methodology for Assessing Procurement Systems) evaluation. This assessment focuses on strategic and sustainable procurement and determines the extent to which the procurement system in Ecuador serves to achieve the SDGs.

The LOSNCP does not include specific references or requirements related to the integration of RBC, risk-based due diligence or responsible public procurement. There is no reference to central aspects of RBC objectives such as human rights or labour rights. The LOSNCP includes some aspects of sustainability, in that it references Ecuador's PND.¹⁴⁸ According to this provision, public procurement must comply with the requirements and goals set by the PND. Contracting authorities have discretion in incorporating considerations related to sustainability or responsible public procurement into their procurement. If due diligence requirements are incorporated in a public procurement, contracting authorities are required to consider these aspects as part of the selection (i.e., as part of criteria), but not as part of the contract (i.e., performance clauses are not possible).

Among the objectives of the SNCP, the LOSNCP lists the guarantee of transparency and avoiding arbitrary decisions in public procurement, as well as modernising the process of public procurement, to make it a tool for the effective management of the State's economic resources.¹⁴⁹

At the time of writing, the legal and regulatory framework for public procurement included limited provisions related to RBC and due diligence. The present Review considers the version of the LOSNCP in force in December 2021 (in force since 2018). In this version, the law does not prohibit nor encourage sustainable public procurement practices. Price remains the deciding criterion in evaluating bids. Article 6 of the LOSNCP sets award criteria for goods, works and services. Cost is the award criterion set by the law for goods and regular services (except consulting services). Public works and consulting services have more decision-making margin. The law specifies that, in these cases, price cannot be the only criterion. The LOSNCP also establishes preferences for certain groups of companies, such as SMEs, as well as stakeholders of the popular and solidarity-based economy ("*actores de la economía popular y solidaria*") (Government of Ecuador, 2008^[295]). Prior to initiating a pre-contractual procedure, depending on the nature of the contract, contracting authorities must complete necessary studies, such as EIAs.¹⁵⁰

Since developing the analysis for this Review, Ecuador reformed its public procurement legal and regulatory framework by revising the regulation accompanying the LOSNCP (see Box 4.2). In force since August 2022, this reform introduces a number of changes to Ecuador's public procurement regulation that may enhance the integration of considerations relevant to RBC in public procurement. For example, the

possibility to award contracts based on non-price criteria is crucial to ensure that considerations relating to RBC can influence an award decision. As this new legal framework is being implemented, it will be crucial to evaluate the reform's impact.

Box 4.2. Reform of public procurement regulation in Ecuador

In order to simplify and provide clarity on the procedures in the different phases and stages of public procurement, the General Regulation to the Organic Law on the National Public Procurement System (*Reglamento General a la Ley Orgánica del Sistema Nacional de Contratación Pública*) was updated through Executive Decree No. 458 in June 2022. The amendment to the Regulation entered into force in August 2022.

The main contribution of this reform is the definition of each of the phases of public procurement, its content, and the role of the contracting entities, in order to improve efficiency and create greater legal certainty. The reform of the Regulation also made it possible to incorporate elements related to RBC in public procurement.

Under the updated legal framework, the contracting entities must formulate technical specifications of the goods or items required, or terms of reference for the services (Article 51), during the planning phase. In both cases, the contracting entities must take into account sustainability criteria when applicable (Articles 52 and 53). However, the Regulation does not include definitions of these criteria.

The new Regulation also incorporates new criteria for evaluating bids beyond the price. The reform establishes two methods for evaluating bids (Article 86):

- “Complies or Does Not Comply” Methodology: the evaluation is carried out on the basis of the parameters established by each contracting entity. It is applied when the objective is to determine compliance with a minimum technical, economic or legal condition, requirement or capacity by the bidder.
- “By Score” Methodology: the evaluation is carried out in two stages. After applying the “Complies or Does Not Comply” methodology, the contracting entity applies an evaluation through a weighted score, which may include additional criteria (Article 87). These can be related to social sustainability, defined as those that seek to reduce social inequalities, include affirmative actions, such as the promotion of transparency, gender equality and respect for human rights, compliance with good international practices, such as the inclusion in the production chain of people with disabilities, older adults and women. Likewise, criteria on environmental sustainability can be taken into account, that is, that they generate the least environmental impact throughout the entire life cycle or that they generate a positive environmental impact through their production process.

By including these new evaluation criteria, contracting entities can encourage the adoption of RBC practices by bidders to improve their position in public procurement.

Additionally, to fight and sanction corruption in public procurement, the new Regulation creates the possibility of temporarily suspending procurement procedures in the event that acts of corruption are identified (Article 352). However, the new Regulation does not introduce changes related to the development of due diligence or risk management processes to limit adverse impacts in the framework of public procurement.

Source: (Government of Ecuador, 2022^[296]).

Ecuador should evaluate the effects of its recent reform and continue to ensure that it has a strong legal and regulatory framework to promote the integration of considerations relevant to RBC in public procurement. It should also equip public buyers with sufficient resources to effectively

implement this legal and regulatory framework. Moreover, Ecuador should strengthen its policy framework to promote the integration of RBC and risk-based due diligence into public procurement and consider developing additional policies, strategies, and implementation support in this regard.

Box 4.3 contains several examples of strategic policy documents that countries have used to promote the integration of RBC in public procurement. The examples show how RBC expectations can be reflected in the legal and regulatory frameworks for public procurement.

Box 4.3. Strategic frameworks towards integrating RBC in public procurement

Countries have taken various approaches to developing their strategic framework for responsible public procurement. The frameworks feature a number of RBC-related objectives in public procurement in different ways.

The **Australian** Commonwealth Procurement Rules¹ form the core of Australia's procurement framework. This framework includes references to a number of RBC objectives, including environment, human rights, labour rights, persons with disabilities, long-term unemployed people, and integrity.

The **Danish** government implemented a strategy called Strategy for Intelligent Public Procurement,² which contains guidelines for promoting sustainability in public procurement. Principle 6 "Green conversion" focuses on green public procurement and encourages contracting authorities to transition towards greener procurement options. The Strategy also contains guidelines for the promotion of human rights in public procurement procedures.

The **Dutch** Public Procurement Act³ refers to a number of RBC objectives, including environmental objectives, human and labour rights, persons with disabilities, long-term unemployed people and integrity. In addition, the Netherlands has developed an Action Plan for Responsible and Sustainable Procurement by Governments (2015-2020)⁴, which targets, among others, environmental goals (reducing environmental impact), human rights considerations (based on ILO and SDGs standards), labour rights and considerations related to persons with disabilities.

Norway has strategic frameworks on several levels: The Public Procurement Act⁵ and the Regulation on Public Procurement No. 974⁶ mention several RBC objectives, including environmental considerations, human and labour rights, persons with disabilities, and integrity. In addition, the Norwegian Government presented a white paper (in Norwegian)⁷ on public procurement, which considers how to work with environmental issues, human and labour rights and integrity considerations in public procurement procedures. The national central purchasing body, the Norwegian Digitalisation Agency (DigDir)⁸, has an additional strategic public procurement framework that in some aspects goes beyond the national one. This strategy states that human and labour rights clauses are mandatory in all of their procurement procedures.

Sweden has one comprehensive National Public Procurement Strategy⁹ that includes a range of objectives for contracting authorities, to take greater responsibility for their public procurement. The strategy includes several objectives that focus on aspects relating to RBC, including the green public procurement and how uptake of this aspect must be increased throughout the public sector; the achievement of well-functioning public procurement, which relies on integrity and trust; social aspects enhancing more responsible public procurement for a more socially sustainable society. These considerations include respect for human rights, reasonable working conditions, promotion of employment, equal opportunities and respect for different groups.

Notes:

1. Government of Australia (2019), Commonwealth Procurement Rules, https://www.finance.gov.au/sites/default/files/2019-11/CPRs-20-April-2019_1.pdf.

2. Government of Denmark (2013), Strategi for intelligent offentligt indkøb, <https://www.regeringen.dk/aktuelt/tidligere-publikationer/strategi-for-intelligent-offentligt-indkoeb/>.
 3. Government of The Netherlands (2012), Legal framework procurement in The Netherlands, <https://www.pianoo.nl/en/legal-framework-procurement-netherlands>.
 4. Government of The Netherlands (2015), Plan van aanpak maatschappelijk verantwoord inkopen overheden (2015-2020), <https://www.pianoo.nl/sites/default/files/documents/documents/plan-van-aanpak-maatschappelijk-verantwoord-inkopen-2015-2020-september2015.pdf>.
 5. Government of Norway (2001), Lov om offentlige anskaffelser, <https://lovdata.no/dokument/NL/lov/2016-06-17-73?q=anskaffelsesloven>.
 6. Government of Norway (2017), Forskrift om offentlige anskaffelser (anskaffelsesforskriften), <https://lovdata.no/dokument/SF/forskrift/2016-08-12-974?q=foa>.
 7. Government of Norway (2018), Smartere innkjøp – effektive og profesjonelle offentlige anskaffelser (2018-2019) <https://www.regjeringen.no/contentassets/2d7006f67c374cbdab5d4d6ba7198ebd/no/pdfs/stm201820190022000dddpdfs.pdf>.
 8. Government of Norway (n.d.), Website: Fagsider om offentlige anskaffelser, <https://anskaffelser.no/>.
 9. Government of Sweden (n.d.), National Public Procurement Strategy, <https://www.government.se/4aba88/contentassets/9ec42c71c00442a39d67169d3c25faed/national-public-procurement-strategy.pdf>.
- Source: (OECD, 2020^[289]).

Provide stronger implementation support on responsible public procurement

Aside from the legal and strategic framework, Ecuador has taken steps to integrate considerations related to RBC in public procurement. SERCOP is preparing guidance and model documents on sustainable public procurement. Noteworthy, good practices on inclusion of RBC objectives in public procurement can be found in relation to data and transparency (integrity), training, as well as in public works procurement.

Increasing the use of information technology has contributed to greater integrity in public procurement in recent years. SERCOP administers SOCE, an e-procurement platform, and the Unified Registry of Suppliers (*Registro Unico de Proveedores*, RUP). According to the LOSNCP, the use of the SOCE is mandatory for all authorities mandated by the Law, although it does not specify which those are. The SOCE hosts the RUP, an electronic catalogue of institutions participating in the SNCP and other information. Only companies registered in the RUP can participate in public procurement. The e-procurement system has made the management of public procurement more efficient and contributed to savings in public spending (OECD, Forthcoming, 2023^[31]).

In this context, it is important to mention Ecuador's efforts in implementing the Open Contracting Data Standard (*Estándar de Datos para las Contrataciones Abiertas*). Ecuador has been increasingly gathering and publishing information on public procurement, most recently as part of increasing health procurement during the COVID-19 crisis. This increased transparency has demonstrably had a positive effect on integrity, as scandals related to public procurement have been brought to light. Further opportunities exist to use this data more strategically, to strengthen sustainable and responsible public procurement, for example through monitoring (OECD, Forthcoming, 2023^[31]).

Moreover, SERCOP implemented a Quality Management and Anti-Bribery System (*Sistema de Gestión de la Calidad y Antisoborno*), certified to ISO 37001 standards: 2016 and 9001: 2015, which aims to identify, mitigate and avoid risks in public procurement processes in order to improve the quality of public spending. The public may file complaints to alert SERCOP of any possible corrupt acts in public procurement (Government of Ecuador, n.d.^[297]). It has also entered into institutional cooperation agreements to fight against corruption, namely with the FGE and the CGE (Government of Ecuador, 2018^[298]).

Ecuador could build on its current efforts regarding transparency, information technology and data systems for public procurement and expand them towards information on RBC in public procurement. This could include the identification of data needs and an analysis of how existing data points can be better used to promote the inclusion of RBC objectives in public procurement.

An evaluation of the capacity to enhance and use such a data system could also be carried out, taking into account existing capabilities, needs and gaps relating to considerations relevant for RBC and risk-based due diligence in public procurement.

Box 4.4 presents an example of how indicators formed with public procurement data were used in Finland to track the impact of public procurement in general, which included environmental and social considerations.

Box 4.4. Measuring public procurement impact in Finland

The OECD has worked with Finland to identify a path forward to measure the impact of public procurement on achievement of specific policy outcomes:

- Unlocking innovation.
- Increasing access and competition from SMEs.
- Increasing exports and employment.
- Pioneering clean technology.

An OECD report identified gaps and further work required in collecting data to demonstrate that the outcomes have been achieved. A productivity framework was defined. As part of this framework, a set of performance indicators were suggested, including some for measuring the impact of public procurement on achieving the goals related to secondary policy objectives. Examples of the performance indicators are set out below:

- SME participation: Number of bids submitted for tenders by businesses categorised as SMEs.
- Reduction in energy consumption: Comparison of energy consumption of historical goods and services bought by the Finnish Government and new goods and services selected using Most Economically Advantageous Tender (MEAT) criteria or other criteria.
- Reduction of emissions: Comparison between emissions from historical goods and services bought by government and new goods and services selected using emissions as criteria.
- Improvement in air/water quality: Comparison between impacts on air/water quality of historical goods and services bought by government and new goods and services selected using environmental considerations as criteria.
- Incorporation of social considerations in government contracts: Ratio of public contracts pursuing social objectives (including the aggregation of social outcomes secured through public contracts).
- Skills/jobs creation: Number of jobs/training qualifications generated through public procurement.

Source: (OECD, 2019^[299]).

In the area of public works, efforts have been undertaken to consult local communities, notably in the Amazon area. During the planning phase, workshops were conducted with local communities affected by a certain procurement, and requirements were set to ensure local communities are benefiting from a certain project – for example through employment reserved for the local population as part of maintenance. A multi-disciplinary team ensures that environmental aspects, as well as labour safety issues, are taken into account when procuring public works.

The Law Reforming the Comprehensive Criminal Code, enacted in February 2021, introduced a requirement for civil servants to be certified and trained on public procurement. In this context, SERCOP launched a seminar in July 2021 to provide the corresponding training (Government of Ecuador, 2021^[269]).

Classes took place virtually, and there were more than 35,000 participants (Government of Ecuador, 2021^[269]). Nonetheless, the curriculum for the certification does not appear to include specific courses on corruption or promoting the integration of RBC in public procurement (Government of Ecuador, 2021^[281]). During the preparation of the Review, government representatives familiar with the issue stated that, while this programme has contributed greatly towards implementing strategic public procurement, capacity was still lacking. According to government representatives, capacity gaps were considerable, especially on responsible public procurement, where the complexity of the tasks called for sufficient expertise. Technology, while a valuable source of resource efficient support, only responded to part of the requirements.

Ecuador should work on increasing the capacity of its public procurement system with a view to promote RBC. To this end, it should carry out a needs assessment and adopt an adapted strategy on how to fill any identified gaps in the integration of RBC and risk-based due diligence in public procurement, using the full spectrum of possible means to build capacity on these topics – i.e. using digitalisation in a smart way to take into account RBC objectives and due diligence, organising public procurement staff in innovative and efficient ways to allow specialisation on aspects of RBC or risk-based due diligence, ensuring that all contracting authorities have a sufficient number of staff knowledgeable on RBC and due diligence, and analysing how to proceed to a further centralisation to alleviate the burden on decentralised contracting authorities.

Ecuador could also consider including good practices related to RBC objectives and risk-based due diligence in public procurement, and disseminate them among public buyers and contracting authorities. For example, a part of SERCOP's online depository for public procurement rules, tools and training could be used to present short case studies on how RBC objectives can be successfully taken into account or on how risk-based due diligence can enhance public procurement.

Box 4.5 features examples of how countries have used competence centres to build the capacity of public buyers, especially on challenging and complex areas like sustainable public procurement that have a bearing on promoting RBC in public procurement.

Box 4.5. Examples of government efforts to increase knowledge of RBC in public procurement

FIDO – the Belgian knowledge centre

In 2014, the Belgian Government established a knowledge centre, the Federal Institute for Sustainable Development (FIDO). It has developed a Sustainable Procurement Guide, a web-based guide which outlines the technical sustainability criteria to be included in specifications for the purchase of supplies and services. The guide matches the characteristics of the sector concerned, without losing sight of competition and price considerations. FIDO continuously updates the Sustainable Procurement Guide and advises on the correct interpretation of technical specifications and other clauses contained within it. FIDO also conducts studies on methodologies such as life cycle costing.

In addition, a methodology was developed to reach out to businesses when compiling or updating technical specifications for products and services belonging to an industrial sector. FIDO established a standing working party. This working party consists of members of the community, regions, provinces and municipal councils, and industry associations. The industry associations mobilise companies that it believes are best placed to help establish technical specifications that match the capabilities of suppliers in the sector in question. This working method has helped establish realistic specifications that support improved levels of competition.

The Dutch expertise centre: PIANOo

The Dutch Minister of Economic Affairs is responsible for PIANOo which is a centre that supports contracting authorities with tools, training and fact sheets. It also distributes news and best practices, and develops practical guidelines including sustainable public procurement considerations. The aim of PIANOo is to enhance professional skills of purchasers regarding different markets, risks, innovative tendering and the interpretation of rules. The centre employs around 20 people to support the network of approximately 4,500 professionals in public procurement.

Competence centres in Germany: KNB and KOINNO

To support the implementation of strategic procurement in Germany, the Federal Government has established a number of dedicated bodies to house expertise in specific areas of strategic procurement.

The Competence Centre for Sustainable Procurement (KNB) plays a key role in the achievement of sustainability goals. The KNB was established in 2012 within the Federal Procurement Office of the Ministry of the Interior (Beschaffungsamt des Bundesministeriums des Innern, BeschA). The Centre has the status of a federal authority. The KNB helps contracting authorities consider sustainability criteria in their procurement projects. It offers the approximately 30,000 contracting agencies of the Federal Government, as well as states and municipalities, information and training. It also develops new approaches for anchoring the sustainability principle in the activities of contracting authorities.

The Centre draws on the assistance of an expert body set up for this purpose. It uses a variety of channels for disseminating information and knowledge-building related to sustainable procurement, such as a telephone and email hotline to respond to questions, provide advice to procurement staff, including training. Many approaches have been developed in collaboration with stakeholders such as contracting authorities from across government, members of industry and NGOs.

The German Competence Centre for Innovation Procurement (Kompetenzzentrum innovative Beschaffung, KOINNO) supports innovation in public procurement. KOINNO is a registered association hosted by the Association of Materials Management, Purchasing and Logistics (BME) on behalf of the Federal Ministry for Economic Affairs and Energy (BMWi). KOINNO's objective is to increase public procurement of innovative goods and services in Germany, and, by so doing, trigger innovation and increased competitiveness in the German economy. In order to measure progress towards this objective, KOINNO has targeted a considerable increase in the percentage of procurement procedures for new technologies, products and services. The services provided by KOINNO are similar to those of KNB in that they provide contracting authorities with training, workshops, networking opportunities, on-call consulting and a website containing best practices, templates and guidance.

Both the KNB and KOINNO coordinate their work in order to learn from successes and challenges.

Sources: (OECD, 2015^[300]; PIANOo, n.d.^[301]; OECD, 2019^[6]).

Policy recommendations

20. Evaluate the effects of the recent reform of the public procurement legal and regulatory framework and continue to ensure that it promotes the integration of considerations relevant to RBC, equipping public buyers with sufficient resources to effectively implement it.
21. Strengthen the policy framework on public procurement to promote the integration of RBC and risk-based due diligence and consider developing additional policies, strategies, and implementation support in this regard.
22. Build on existing efforts to implement strategic public procurement in order to enhance the integration of RBC and risk-based due diligence in public procurement, in particular through Ecuador's e-procurement system and capacity-building initiatives.

4.1.2. Incorporating considerations relating to RBC in the operations of Ecuador's State-Owned Enterprises

The adoption and implementation of RBC principles and standards by State-Owned Enterprises as a conduit to incentivise RBC

SOEs can play an important role in the economy (OECD, 2017, p. 7_[302]). In many countries, they are responsible for providing essential public services, having a direct impact on citizens' lives (OECD, 2015, p. 7_[303]). In addition, SOEs increasingly engage in trade and investment (OECD, 2016, pp. 13, 20_[304]) and have become important actors in GVCs outside their territories (OECD, 2015, pp. 11-12_[303]). In fact, today, 132 of the world's largest 500 enterprises are state-owned or effectively state-controlled (OECD, 2020, p. 148_[305]).

The 12 Ecuadorian SOEs¹⁵¹ active today have a significant economic importance for the country and provide fundamental public services in strategic sectors (Government of Ecuador, 2021_[306]). This is particularly true for Petroecuador, which is one of the leading oil companies in the region (Statista, 2021_[307]). According to information provided by the *Empresa Coordinadora de Empresas Públicas* (EMCO EP), the umbrella entity for SOEs in Ecuador, during the preparation of this Review, Ecuadorian SOEs contributed to 20.4% of Ecuador's budget revenues in 2018. This contribution fell to 13.8% in 2020 due to the COVID-19 crisis and low oil prices, but is likely to rise again. In addition, Petroecuador's revenue – the only remaining state-owned oil and gas company¹⁵² – represented 8% of Ecuador's GDP in 2020, while the revenue of the other seven most important SOEs amounted to 11.8% of the country's GDP for the same year.

Given the economic importance of SOEs and their capacity to impact economic and social development (OECD, 2015, p. 8_[303]), ensuring that they operate in accordance with good governance practices and RBC principles and standards is fundamental to ensure their positive contribution to the economy and reduce their actual or potential adverse impacts on people, the planet, and society (OECD, 2015, p. 11_[303]). This is all the more important as SOEs often operate in sectors where RBC-related risks may be prevalent (OECD, 2019, p. 3_[308]).

This is true for Ecuador's main SOEs operating in the oil and gas, mining, electricity and telecommunications sectors, namely: (i) Petroecuador EP, (ii) Empresa Nacional de Minería (ENAMI EP), (iii) Corporación Eléctrica del Ecuador (CELEC EP), (iv) Corporación Nacional de Electricidad (CNEL EP), (v) Flota Petrolera Ecuatoriana (EP FLOPEC) and (vi) Corporación Nacional de Telecomunicaciones (CNT EP). These are all sectors with considerable risks of adverse impacts on human rights and the

environment or of corruption. Several Ecuadorian SOEs have been involved in conflicts related to this type of adverse impact in recent years. For instance, Petroecuador's operations recently caused one of the largest oil spills in over a decade, which has generated major adverse impacts for the local Kichwa community (see Box 3.3 in Section 3.1.2). The mining projects involving ENAMI EP have also been called into question, including by the Comptroller General of the State (*Contraloría General del Estado*, CGE), notably for not complying with environmental due diligence expectations and failing to engage in proper consultation with the indigenous communities potentially impacted by its operations.¹⁵³ Various SOEs in Ecuador have also been linked to corruption. In 2021, reports claimed that Petroecuador was involved in over a thousand active corruption cases (La Hora, n.d.^[309]). One of the most recent cases arose out of a bribery scheme of up to USD 22 million paid by Swiss commodity trading company, Gunvor, to Ecuadorian officials in exchange for contracts with Petroecuador (Petroecuador, 2021^[310]).

Several OECD instruments acknowledge the importance of SOEs adopting and implementing RBC principles and standards to contribute to sustainable development and identify, prevent and address adverse impacts. The OECD MNE Guidelines apply to all enterprises, regardless of their ownership and legal status.¹⁵⁴ The PFI also recognises that governments should ensure that SOEs exemplify RBC in their practices (OECD, 2015, p. 77^[1]). In the same vein, the OECD Guidelines on Corporate Governance of SOEs (OECD SOE Guidelines) include a chapter dedicated to "Stakeholder relations and responsible business".¹⁵⁵ This chapter recommends, among other things, that SOEs observe high standards of RBC. To this effect, governments should disclose their expectations regarding RBC and SOEs in a clear and transparent manner and establish mechanisms for their implementation (OECD, 2015, pp. 23, 60^[303]). The OECD SOE Guidelines also recommend that SOEs observe high standards of transparency and disclose relevant financial and non-financial information (OECD, 2015, pp. 26, 64^[1])¹⁵⁶. Additionally, the OECD Guidelines on Anti-Corruption and Integrity in SOEs (OECD ACI Guidelines) provide specific guidance with respect to the fight against corruption and the promotion of integrity in SOEs (OECD, 2019, p. 10^[308]). They recommend *inter alia* that governments apply high standards of conduct in order to set an example in SOEs and to demonstrate integrity to the public. They also call on governments to require that SOEs, in turn, act in accordance with high standards of performance and integrity (OECD, 2019, pp. 17, 20^[308]).¹⁵⁷

Promoting the adoption and implementation of RBC principles and standards by Ecuador's main State-Owned Enterprises as a conduit to incentivise RBC

Governments can require SOEs to adopt and implement RBC principles and standards and hence lead by example on responsible business practices. However, this largely depends on the characteristics of the legal framework applicable to SOEs and the corresponding system of ownership and governance.

In Ecuador, the Constitution provides that the State shall create SOEs to manage strategic sectors, to provide public services, to use natural resources or public assets sustainably, and to exercise other economic activities.¹⁵⁸ In addition, the Constitution requires that SOEs are governed and controlled by relevant government entities.¹⁵⁹ The legal framework applicable to SOEs is established in the Law on SOEs (*Ley Orgánica de Empresas Públicas*, LOEP). The LOEP is applicable to all SOEs that operate at the international, national, regional, provincial or local levels, except those of the financial sector.¹⁶⁰ It governs their creation, organisation, functioning, merger, termination and liquidation.¹⁶¹ Under the LOEP, all Ecuadorian SOEs have their own legal personality and assets, as well as budgetary, economic, administrative and management autonomy.¹⁶²

In 2015, Ecuador established a central coordinating agency to coordinate the activities and governance practices of Ecuadorian SOEs: the EMCO EP. The function of the EMCO EP were recently reinforced in 2020 when, to comply with the objectives set in the 2017-2021 PND, the management system of Ecuadorian SOEs was reformed to attain higher levels of management, administrative and financial efficiency.¹⁶³ The EMCO EP thus became the entity in charge, among other things, of planning, articulating, coordinating and evaluating the policies and actions of all SOEs, including their subsidiaries

and agencies.¹⁶⁴ As part of its new attributions, the EMCO EP is now able to issue mandatory policies, guidelines, tools and methodologies to standardise the corporate governance practices of all Ecuadorian SOEs. It can also evaluate the management of SOEs based on criteria of efficiency, economic, financial or social profitability, as well as sustainability and impact on policy.¹⁶⁵ In addition to the EMCO EP, the CGE is responsible for auditing and controlling Ecuadorian SOEs, as provided by Article 211 of the Constitution and the LOEP.¹⁶⁶ It is responsible for their management audits and assesses whether SOEs are complying with their institutional purposes.¹⁶⁷ It also oversees their external financial audit process and evaluates their internal control systems. Likewise, the CPCCS plays an oversight role regarding SOEs, which must submit annual balance sheets and levels of compliance with labour and fiscal obligations and their objectives.¹⁶⁸

The LOEP, and the recent reform of the management system of Ecuador's SOEs, with the reinforcement of the EMCO EP's functions, provide a favourable context for promoting the adoption and implementation of RBC principles and standards by Ecuador's main SOEs in a structured and coherent manner.

Promoting the integration of a structured and coherent RBC approach in Ecuador's main State-Owned Enterprises

The legal framework applicable to SOEs in Ecuador includes some considerations relating to RBC, with a specific focus on the protection of the environment. This is most likely because Ecuador has adopted a prominent stance towards nature, as shown by the constitutional recognition that nature has the right to have its existence fully respected, along with the maintenance and regeneration of its life cycles, structure, functions and evolutionary processes (see Section 3.3.2). Thus, with respect to SOEs, the Constitution provides that SOEs must operate in accordance with high quality parameters and business, economic social and environmental criteria.¹⁶⁹ Additionally, one of the main objectives of the LOEP is to promote the sustainable and decentralised development of the State, responding to the basic needs of the population, while making rational use of natural resources and preserving the rights of future generations over renewable and non-renewable natural resources.¹⁷⁰ In this context, the LOEP requires SOEs to consider socio-environmental variables in their productive processes and costs.¹⁷¹ According to the general principles set by the LOEP, SOEs must also act according to efficiency, rationality, value for money and social control in the exploration, exploitation or industrialisation of renewable or non-renewable natural resources and in the trading of derived products, preserving the environment at all times and seeking to integrate socio-environmental costs into production costs.¹⁷² Similarly, the third general provision of the LOEP provides that the activities of SOEs must preserve the ecological balance, which means that SOEs must observe environmental control policies and environmental management plans to prevent, mitigate, control, rehabilitate and compensate the environmental impacts caused by their activities.¹⁷³

Because of this focus on the protection of the environment and the integration of concerns for the environmental impacts of SOEs' activities in the LOEP, most of Ecuador's main SOEs have developed and adopted specific environmental and social policies in recent years. Various Ecuadorian SOEs, such as CNEL and Petroecuador, issue annual sustainability reports that use the methodology of the Global Reporting Initiative (GRI) standard (CNEL EP, n.d.^[311]). These reports detail the enterprises' financial, social and environmental performance. For example, according to Petroecuador's sustainability report for 2020, sustainable development is one of the pillars of its management (Petroecuador, 2021^[312]). In this report, Petroecuador expresses its commitment to mitigating the impact of its operations, by implementing environmental management plans as well as social investment plans in the areas on which it operated in 2020. The purpose of these plans, according to Petroecuador, is to contribute to the State's efforts to achieve the objectives of the 2017-2021 PND and the SDGs (Petroecuador, 2021, p. 19^[312]).

Beyond the provisions on environmental protection, the LOEP also mentions CSR policies in SOEs, stating that their management boards are responsible for approving such policies, among other tasks.¹⁷⁴ Although this is only framed as a possibility and Ecuadorian SOEs do not appear to have the legal obligation to adopt such policies, some of them have developed specific CSR policies. However, the LOEP does not

define what CSR entails, nor does it provide either additional details on the aspects that these CSR policies should cover and, in particular, on whether SOEs should conduct due diligence to identify, prevent and address the adverse impacts of their activities, supply chains and/or business relationships. What's more, neither the Government nor the EMCO EP appear to have provided further guidance for SOEs on this aspect. Owing to these circumstances, Ecuador's main SOEs have adopted different approaches when developing their CSR policies, which in general deal with only some of the areas covered by the OECD MNE Guidelines and almost never foresee the need to conduct due diligence processes. Varying practices have also been developed regarding the adoption of additional instruments or policies on specific RBC-related issues, such as anti-corruption and integrity. The differences between these instruments and policies are a clear manifestation of this lack of a structured and coordinated approach on RBC among Ecuadorian SOEs.

Petroecuador EP

In 2021, Petroecuador published an Ethics Code (*Código de Ética*) establishing mandatory conduct guidelines for the company, its workforce and suppliers in several areas of the OECD MNE Guidelines, including anti-corruption, social and environmental responsibility and labour rights (Petroecuador, 2021^[313]). This Code also sets out Petroecuador's commitments regarding transparency, health and safety and environmental protection. An ethics committee is in charge of ensuring the implementation and observance of the Ethics Code, which includes addressing complaints. Petroecuador also adopted a more general Safety, Health, Environmental and Social Responsibility Policy (*Política de Seguridad, Salud, Ambiente y Responsabilidad Social*) in 2021 (Petroecuador, n.d.^[314]). Through this policy, Petroecuador commits, *inter alia*, to integrating safety, health, environmental and social responsibility at all levels of the company, to respect human rights, promote an inclusive, free and safe workplace and to protect the environment. Prior to adopting these instruments in 2021, Petroecuador had already developed an anti-bribery policy, which requires a due diligence process before establishing a commercial relationship with a third party (see Table 4.1) (Petroecuador, 2019^[315]).

Table 4.1. Main RBC-related instruments, policies and initiatives adopted by Petroecuador EP

Title	Date	Areas of OECD MNE Guidelines covered	Main characteristics	Reference to due diligence
Ethics Code	2021	<ul style="list-style-type: none"> Human rights Labour rights Environment Anti-corruption 	<ul style="list-style-type: none"> Reflects Petroecuador's values and principles, and establishes the rights and obligations of its workforce as well as guidelines and commitments by the company and its suppliers on several topics, including ethics and integrity, human rights, labour rights, and the environment. 	No
Health, Safety, Environment and Social Responsibility Policy	2021	<ul style="list-style-type: none"> Human rights Labour rights Environment 	<ul style="list-style-type: none"> Contains Petroecuador's commitment to protect the health and safety of its workforce and prevent and mitigate environmental impacts related to its activities. 	No, but reference (not detailed) to risk prevention plans that may affect employee health and safety, the environment and the community
Anti-bribery Policy of Empresa Pública de Hidrocarburos del Ecuador, EP Ecuador	2019	<ul style="list-style-type: none"> Anti-corruption 	<ul style="list-style-type: none"> Contains Petroecuador's principles and commitments to identify, control, monitor, investigate and address bribery, which also apply to its suppliers and clients. 	Yes (refers to due diligence on employees and third parties and the obligation to perform a due diligence prior to entering in a commercial relationship with a third party)

Sources: (Petroecuador, 2021^[313]; 2019^[315]; n.d.^[314]).

Empresa Nacional Minera del Ecuador (ENAMI EP)

ENAMI EP, a mining company, published its CSR policy in 2020, consisting of 12 guidelines, which are drafted in very broad terms (ENAMI EP, 2020^[316]). For example, under the seventh guideline, ENAMI EP commits to establishing a CSR system based on national and international norms, taking into account mechanisms of prevention, mitigation, reparation, through management plans and community relations programmes (ENAMI EP, 2020^[316]). However, there is no indication on which standards it is based or how they are being implemented. In 2020, ENAMI EP also published an environmental policy, committing to establish an environmental management system based on international standards to identify, prevent, mitigate and control environmental risks and impacts linked to the company's mining operations and to remedy any environmental harm (ENAMI EP, 2020^[317]). In addition, ENAMI EP developed a health, safety and environmental policy to address the risks linked its mining operations (ENAMI EP, 2017^[318]). With this policy, ENAMI EP commits to ensuring the health and safety of its workforce, notably by providing adequate working conditions and applying the best mining practices for the environment and local communities (see Table 4.2).

Table 4.2. Main RBC-related instruments, policies and initiatives adopted by ENAMI EP

Title	Date	Areas of OECD MNE Guidelines covered	Main characteristics	Reference to due diligence
Corporate Social Responsibility Policy	2020	<ul style="list-style-type: none"> Human rights 	<ul style="list-style-type: none"> Reflects ENAMI EP's commitment to social responsibility and contains guidelines aimed at helping them to conduct their activities in a way compatible with local communities' rights. 	Yes (but under a social responsibility assessment approach and with no specific mention of the concept of "due diligence")
Environmental Policy	2020	<ul style="list-style-type: none"> Human rights Environment 	<ul style="list-style-type: none"> Reflects ENAMI EP's commitment to prevent environmental impacts related to their mining activities. 	Yes (but under an environmental risk management approach and with no specific mention of the concept of "due diligence")
Health, Occupational Safety and Environment Policy	2017	<ul style="list-style-type: none"> Human rights Labour rights Environment 	<ul style="list-style-type: none"> Details the rights and obligations of both ENAMI EP and its workers to ensure their health and occupational safety. 	No, but reference is made to a health and safety risk management system

Sources: (ENAMI EP, 2020^[317]; 2017^[318]; 2020^[316]).

Corporación Eléctrica del Ecuador (CELEC EP)

CELEC lists social responsibility and environmental management among its values (CELEC, n.d.^[319]). As such, according to information provided by CELEC during the preparation of this Review, it conducts EIAs and develops environmental management plans for its activities, in accordance with Ecuadorian regulations. In 2020, CELEC EP published an Ethics and Conduct Code (Código de Ética y Conducta) that applies to all employees, clients and suppliers of the company (CELEC EP, 2020^[320]). This Code provides for equal opportunity, integrity and non-discrimination in the workplace, and states that CELEC EP shall uphold human rights in all its activities, forbidding any type of child or forced labour (see Table 4.3) (CELEC EP, 2020^[320]). According to information provided by CELEC during the preparation of this Review, an external consultancy firm is currently assisting the company in the development of an anti-bribery policy, as well as a CSR policy, for which the OECD MNE Guidelines are being used as a basis.

Table 4.3. Main RBC-related instruments, policies and initiatives adopted by CELEC EP

Title	Date	Areas of OECD MNE Guidelines covered	Main characteristics	Reference to due diligence
Ethics and Conduct Code	2020	<ul style="list-style-type: none"> Human rights Anti-corruption 	<ul style="list-style-type: none"> Reflects CELEC's commitment towards SDGs. It contains the company's values and principles on several topics such as integrity, sustainability, non-discrimination, labour rights and child labour. It ratifies the company's commitment regarding social and environmental responsibility. It provides for the rights and obligations of its workforce, as well as its suppliers on these same topics. It establishes an ethics committee in charge of monitoring the implementation of the Code and notifying the authorities when necessary. It also provides for a whistleblowing channel. 	No

Source: (CELEC EP, 2020_[320]).

Empresa Eléctrica Pública Estratégica Corporación Nacional de Electricidad (CNEL EP)

According to information provided by CNEL EP during the preparation of this Review, CNEL EP was Ecuador's first SOE to develop an overarching CSR policy in 2013. This policy revolves around six focal points: (i) corporate conduct; (ii) labour; (iii) occupational health and environmental management; (iv) community involvement, (v) client and supplier relations and (vi) monitoring/reporting. It details the guidelines to be followed by the company and its workforce in relation to these six aspects, in addition to the observance of the applicable legislation (see Table 4.4).

Table 4.4. Main RBC-related instruments, policies and initiatives adopted by CNEL EP

Title	Date	Areas of OECD MNE Guidelines covered	Main characteristics	Reference to due diligence
Corporate Social Responsibility Policy	2013	<ul style="list-style-type: none"> Human rights Labour rights Environment Anti-corruption 	<ul style="list-style-type: none"> Reflects CNEL's commitment to sustainable development and contains principles and guidelines aimed at helping them to conduct their activities in a way compatible with sustainable development and taking into account stakeholders' interests 	No

Source: (CNEL EP, 2013).

Flota Petrolera Ecuatoriana (EP FLOPEC)

FLOPEC developed a Comprehensive Policy on Safety, Environment, Quality, Maritime Protection and Anti-Bribery (Política Integral de Seguridad, Medioambiental, de Calidad, de Protección Marítima y Antisoborno) in 2020 (FLOPEC, 2020_[321]). This policy consists of a list of 13 fundamental statements which reflect the company's commitments in several areas of the OECD MNE Guidelines (FLOPEC, 2020_[321]). Beyond this, in 2021, FLOPEC issued a more specific policy targeting bribery, with the implementation of an anti-bribery management system aimed to prevent, reduce, control and address any risk related to bribery (FLOPEC, 2021_[322]). With this system, FLOPEC will create a risk matrix that will identify risks related to bribery and establish risk management plans (see Table 4.5).

Table 4.5. Main RBC-related instruments, policies and initiatives adopted by EP FLOPEC

Title	Date	Areas of OECD MNE Guidelines covered	Main characteristics	Reference to due diligence
Anti-Bribery Policy	2021	<ul style="list-style-type: none"> Anti-corruption 	<ul style="list-style-type: none"> Reflects FLOPEC's commitment to combatting bribery by establishing principles and guidelines for its workforce and business partners to ensure that they comply with the requirements of the applicable anti-corruption laws and adopt the highest standards of integrity. Provides for a risk matrix to identify and evaluate bribery risks and subsequently establish risk management plans. It also puts in place a reporting channel, with mechanisms to ensure the confidentiality of the complaints. 	Yes (but under a risk management approach and with no mention of the concept of "due diligence")
Comprehensive Policy on Safety, Environment, Quality, Maritime Protection and Anti-Bribery	2020	<ul style="list-style-type: none"> Human rights Labour rights Environment Anti-corruption 	<ul style="list-style-type: none"> Reflects FLOPEC's commitments on various topics, including the health and safety of its workforce, the protection of the environment and the compliance with the applicable environmental, labour and anti-corruption laws. 	No

Sources: (FLOPEC, 2021^[322]; FLOPEC, 2020^[321]).

Corporación Nacional de Comunicación (CNT EP)

CNT EP, Ecuador's public telecommunications company, has developed various policies on several areas of the OECD MNE Guidelines (see Table 4.6). Its Environmental Management Policy (Política de Gestión Ambiental) aims to manage natural resources and waste, and to reduce the impact of its operations on the environment (CNT EP, n.d.^[323]). With its Sustainability and Social Responsibility Policy (Política de Sostenibilidad y Responsabilidad Social), CNT also seeks to undertake its activities in a way that contributes to sustainable development and the well-being of stakeholders, in addition to improving environmental performance by reducing adverse impacts on the environment (CNT EP, 2019^[324]). Through this policy, CNT EP intends to contribute to achieving several SDG goals, including gender equality, decent work and climate action. Beyond these policies, CNT has also developed an Anti-Bribery Policy (Política Antisoborno) to identify and limit the risks related to bribery (CNT EP, 2018^[325]).

Table 4.6. Main RBC-related instruments, policies and initiatives adopted by CNT EP

Title	Date	Areas of OECD MNE Guidelines covered	Main characteristics	Reference to due diligence
Environmental Management Policy	n.d.	<ul style="list-style-type: none"> Environment Human rights 	<ul style="list-style-type: none"> Reflects CNT EP's commitment to prevent negative environmental impacts related to their activities and to make rational use of energy. It lays out the principles and guidelines to achieve this. 	Yes (but under an environmental risk management approach and with no mention of the concept of "due diligence")
Sustainability and Social Responsibility Policy	2019	<ul style="list-style-type: none"> Human rights Environment 	<ul style="list-style-type: none"> Reflects CNT EP's commitment to provide telecommunication services in a social and environmentally responsible way, contributing to sustainable development Reflects CNT's commitment to the achievement of several SDGs. 	No

Anti-Bribery Policy	2018	<ul style="list-style-type: none"> • Anti-corruption 	<ul style="list-style-type: none"> • Reflects CNT EP's commitment to work with integrity and transparency to prevent, detect, mitigate and sanction bribery, thus contributing to social sustainability. • Establishes a whistleblowing channel. 	Yes (but under a risk analysis approach and with no specific mention of the concept of "due diligence")
-------------------------------------	------	---	--	---

Sources: (CNT EP, 2019_[324]; 2018_[325]; n.d._[323]).

This overview of the instruments, policies and initiatives pertaining to RBC-related issues developed by Ecuador's main SOEs to date illustrates the diversity of measures taken by each SOE and the lack of a structured and coordinated approach to RBC. Although most SOEs have integrated RBC-related considerations into their policies and management systems and sought to prevent and address adverse impacts, this has not been done in a cross-cutting and integrated manner. In most cases, these instruments, policies and initiatives apply to only one or more areas covered by the OECD MNE Guidelines and do not cover RBC issues comprehensively. This is probably a consequence of the fact that the LOEP focuses on the protection of the environment and that Ecuadorian SOEs do not seem to have received any guidance on how to develop a CSR policy – the adoption of which, in any event, is not mandatory. It is worth noting, however, that this situation is likely to change in the years to come, as a result of the EMCO EP's new functions. Based on its mandate of standardising SOEs policies and guidelines, the EMCO EP recently published, in April 2021, its Principles of Corporate Governance and Ethics Code for State-Owned Enterprises created by Executive Decree (*Principios de Buen Gobierno Corporativo y Código de Ética en las Empresas Públicas Constituidas por la Función Ejecutiva*, EMCO EP Guidelines), which are mandatory for all Ecuadorian SOEs created by executive decree (see Box 4.6).

Box 4.6. The EMCO EP Guidelines for Corporate Governance and Ethics Code for Ecuadorian State-Owned Enterprises

In April 2021, the EMCO EP issued Resolution No. EMCOEP-2021-15 containing its Principles of Corporate Governance and Ethics Code for State-Owned Enterprises created by Executive Decree (*Principios de Buen Gobierno Corporativo y Código de Ética en las Empresas Públicas Constituidas por la Función Ejecutiva*, EMCO EP Guidelines).

The preamble to these Guidelines details the context in which they were drafted. It first notes that, in recent years, Ecuador has made significant efforts to promote good corporate governance practices, notably with the "Honest Ecuador" (Ecuador Sincero) programme implemented by the OECD and GIZ (*Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH*). It then makes reference to the contents of the OECD MNE Guidelines and the OECD Due Diligence Guidance, and emphasises the importance of proper due diligence to identify, prevent and mitigate adverse impacts. It also refers to the OECD's Council Recommendations on public integrity, highlighting that corruption has the most adverse effect on society. On this basis, the preamble explains that the purpose of the EMCO EP Guidelines, in the context of RBC, is to promote public integrity.

The EMCO EP Principles of Corporate Governance for State-Owned Enterprises

With respect to corporate governance, the EMCO EP Guidelines explain that, given that State-Owned Enterprises (SOEs) operate in strategic economic and social sectors, their services reach a large proportion of the population and can have an important impact at a social and economic level. Hence why they should lead by example and guarantee they are sustainable.

The EMCO EP goes on to set out the principles of corporate governance that SOEs must follow, including ethics standards – which ought to be the highest for the public sector since they must protect the public interest – which is why all SOEs must design or update their code of ethics following the EMCO EP Guidelines. SOEs must also guarantee the transparency and accountability of their

operations and processes, their financial information must be accessible and updated, and their managers must be selected on the basis of their merits. In addition, according to these principles, the board of directors is responsible for ensuring the protection of heritage, public property and rights of future generations over renewable and non-renewable natural resources in order to provide a good life for citizens.

The EMCO EP Guidelines provide that these principles must be incorporated into the internal rules of SOEs and shall be mandatory for all levels of the companies.

The EMCO EP Guidelines on the Ethics Code for Ecuadorian State-Owned Enterprises

The EMCO EP Guidelines do not set out the contents of the Ethics Code for SOEs. They merely set out the structure that these codes must follow, which includes chapters on (i) principles of good corporate governance; (ii) institutional principles and values; (iii) values of SOE employees; (iv) standards of conduct, including civil servants' duties and responsibilities and corporate responsibility; (v) conflicts of interest; (vi) procurement; (vii) prohibited behaviour; (viii) complaints mechanisms; (ix) sanctions; and (x) whistleblowers' protection.

In addition, according to the Guidelines, SOEs' Ethics Codes must include a specific chapter on fraud, corruption and bribery prevention. The Guidelines indicate the minimum requirements that should be included in said chapter, notably compliance with the anti-bribery policy and/or system if the SOE has one in place, prohibition from directly or indirectly accepting any gifts, donations or benefits that might entail acts of corruption or bribery, obligation not to abuse one's position in the SOE to benefit oneself or a third party, and compliance with anti-bribery and anti-corruption laws that apply to SOEs. The Guidelines also provide that Ethics Codes must include an obligation to report any suspicion of an act of bribery, corruption or a violation of the Code or the anti-bribery policy to the SOEs' management.

According to the EMCO EP Guidelines, all SOEs must also establish a Corporate Ethics committee or council. The Guidelines specify the 13 functions of this committee or council, which include supervising and ensuring the proper implementation of and compliance with the Ethics Code, evaluating the risks of failing to comply with the Code, and ensuring that internal procedures work correctly, to investigate and issue a report when there are suspicions or complaints of misbehaviour. This council or committee must also ensure that due process is respected and create, when needed, mediation spaces to respond to cases of non-compliance with the Code.

Executive Decree No. 1051 provides that the EMCO EP is responsible for approving any new policy or guidelines that aim to standardise the management of Ecuadorian SOEs. This will allow the EMCO EP to verify that new policies drawn up by SOEs comply with its Guidelines and ensure that all SOEs follow the same strategy.

Source: (EMCO EP, 2021^[326]).

The EMCO EP Guidelines for Corporate Governance and Ethics Code for SOEs represent a potential first step towards the integration of a structured and coherent approach on RBC in Ecuador's main SOEs. However, Ecuador's efforts to standardise are focused on ethics and anti-corruption and integrity, and do not address other areas covered by the OECD MNE Guidelines. In addition, the EMCO EP Guidelines provide only limited guidance to SOEs as to the contents of the Ethics Code, which may hinder coherent approaches among Ecuadorian SOEs, and the scope of the Ethics Code is limited. Likewise, the operative part of the EMCO Guidelines do not include provisions on due diligence, although the preamble stresses its importance, with an express reference to the OECD Due Diligence Guidance for RBC.

Building on its efforts to harmonise the practices of its SOEs through policies and guidelines issued by the EMCO EP, Ecuador could develop an overarching framework to promote the integration of a structured and coherent RBC approach among its main SOEs, underlining the importance of risk-based due diligence and providing detailed guidance for carrying it out.

To promote the observance of high standards on RBC by their SOEs, governments should disclose their expectations in this regard in a clear and transparent manner. Developing and adopting an overarching framework can serve to communicate with clarity the Government's expectations regarding the adoption of an RBC approach by the country's SOEs. By detailing the RBC principles and standards that SOEs should observe and providing guidance on how they should design and put their RBC approaches into practice, that framework can help them build structured and comprehensive strategies encompassing all the areas of the OECD MNE Guidelines in an integrated manner and with a specific focus on due diligence. It can also contribute to creating coherence between the measures taken by the different SOEs to adopt RBC practices and reinforce the example they set in this regard. The Norwegian state ownership policy is a good example of how such an overarching framework leads to integrating RBC into the management systems and policies of SOEs (see Box 4.7).

Box 4.7. Examples of government initiatives to integrate RBC into State-Owned Enterprises' management systems and policies

The Norwegian state ownership policy

RBC is at the centre of the recent Norwegian state ownership policy, which communicates clear expectations in this regard. In addition to being sustainable and contributing to long-term value creation, State-Owned Enterprises (SOEs) are expected to: (i) lead by example on RBC; (ii) work to protect human and labour rights, reduce their climate and environmental footprint and prevent economic crime, including corruption and money laundering; (iii) adopt a justified tax policy that is publicly available; (iv) conduct due diligence for RBC based on recognised methods; and (v) be transparent about material areas, goals and measures relating to their work on RBC.¹

This entails that Norwegian SOEs identify and manage the risks their operations and supply chains pose to society, people and the environment and follow internationally recognised RBC principles and standards, such as the OECD MNE Guidelines and the UNGPs. SOEs' work on RBC must be supported by their boards and incorporated into their goals, strategy and guidelines.² Under this policy, SOEs must conduct due diligence to identify, manage, report and assess risks and have systems in place for remedying any adverse impact.³ To this effect, SOEs are referred to the OECD Due Diligence Guidance for RBC and the different steps of the due diligence process detailed therein.⁴

Finally, to lead by example on RBC, SOEs must be transparent and provide information to customers and stakeholders on how they manage material risks and their basis for future value creation.⁵

Notes:

1. Government of Norway (2019), 2019-2020 Report to the Storting – The State's direct ownership of companies – Sustainable value creation, pp. 63 and 88.

2. *Ibid.*, p. 88.

3. *Ibid.*, p. 90.

4. *Ibid.*, p. 91.

5. *Ibid.*, p. 90.

Sources: (Government of Norway, 2019, pp. 63, 88-90^[327]; OECD, 2020^[305]).

The strengthening of the EMCO EP's attributions creates an opportunity to develop and adopt an overarching framework designed to promote the integration of a structured and coherent RBC approach among the main Ecuadorian SOEs. As a first step in this direction, the EMCO EP could work on a new version of its guidelines, which would integrate an RBC approach based on the recommendations contained in the OECD MNE Guidelines. The revised EMCO EP Guidelines could include precise guidance on how to design and implement broad due diligence processes, on the basis of the OECD Due Diligence

Guidance for RBC, to identify and address the adverse impacts on people, the planet and the environment that their activities, supply chains or business relationships may have. Moreover, during its evaluation of SOEs, the EMCO EP could take into account the integration of considerations relating to RBC in their policies and the measures taken by each SOE to implement them. This could also be an opportunity to gather information on SOEs' RBC practices and, in particular, to determine if and how they carry out due diligence in order to continue the standardisation of this process by disseminating best practices.

In addition, the existence of the LOEP also creates a favourable context for promoting the adoption and implementation of RBC principles and standards by Ecuador's main SOEs in a structured and coherent manner. As a second step, Ecuador could consider amending the LOEP to include specific provisions on SOEs' responsible practices, incentivising them to observe RBC principles and standards and to adopt policies in this area, following the relevant guidelines established by the EMCO EP. This could help reduce discrepancies between the approaches of Ecuador's main SOEs, and could strengthen their alignment with the OECD MNE Guidelines.

Lastly, to promote the observance of RBC principles and standards in practice, the overarching strategy could integrate incentives associated with the design and implementation of an RBC approach for SOEs' boards of directors and managers to prompt them to take practical steps in this direction.

Providing training on RBC and the conduct of due diligence to the officials of the main Ecuadorian State-Owned Enterprises and of the EMCO EP

Although Ecuadorian SOEs have developed several RBC-related policies in recent years, officials at SOEs and the EMCO EP are not receiving specific training on RBC issues, in particular on the importance of conducting due diligence to prevent adverse impacts. Moreover, at the time of writing, there have not been workshops on how officials at SOEs may develop and implement their new codes of conduct on the basis of the EMCO EP Guidelines.

Ecuador could develop awareness-raising and training programmes for the officials of its main SOEs and of the EMCO EP on the importance of observing RBC principles and standards, and teach them how to conduct due diligence.

Developing an overarching framework to drive the adoption by SOEs of a common, structured and coherent RBC approach is not sufficient to guarantee that SOEs effectively observe RBC principles and standards and lead by example on RBC. To ensure this, it is fundamental that officials at SOEs, as well as officials at the government entities responsible for supervising and managing SOEs such as the EMCO EP, be made aware of the importance of SOEs observing such principles and standards and acquiring knowledge and capacity to implement them. For example, on anti-corruption and integrity, an OECD survey of SOEs in Latin American and OECD countries found that 64% of Latin American SOEs considered that a lack of awareness among employees of the need for, or priority placed on, integrity was an obstacle to integrity (OECD, 2017, p. 17^[328]). Special attention should therefore be paid to awareness-raising and training on RBC for officials working at SOEs, as well as on due diligence.

Ecuador could take measures to design and put in place an extensive capacity-building and training programme for SOEs' officials on RBC, to increase their understanding of the importance of RBC and of the advantages of adapting a structured and coherent RBC approach centred on due diligence. The OECD Due Diligence Guidance for RBC and the relevant sector-specific Due Diligence Guidance could serve as a basis for the development of these training programmes. This would be an opportunity to explain the specific features of the due diligence process, as conceived in the OECD's RBC instruments, which goes beyond the risk management process that some SOEs have already implemented. The EMCO EP could be given the mandate to design and deliver such training. The EMCO EP could also liaise with CSOs and the private sector to design a more comprehensive programme that would cover the RBC-related risks of the operations of Ecuadorian SOEs.

Policy recommendations

23. Develop an overarching framework to promote the integration of a structured and coherent RBC approach among Ecuador's main SOEs, underlining the importance of risk-based due diligence and providing detailed guidance for carrying it out.
24. Develop awareness-raising and training programmes to raise the awareness of the officials of its main SOEs and of the EMCO EP about the importance of observing RBC principles and standards, and teach them how to conduct due diligence.

4.2. Including considerations relating to RBC in Ecuador's economic policies that shape business conduct

Beyond leading by example when acting as economic actors and in their commercial activities, governments can promote and enable responsible business practices by integrating considerations relating to RBC into their economic policies that contribute to shaping business conduct. By doing so, governments communicate their RBC expectations to businesses and pinpoint the RBC principles and standards they should observe. Through these policies, Governments can also create incentives for businesses to abide by such principles and standards, thereby encouraging them to adopt responsible business practices. Ecuador could draw on some of its economic policies to leverage and incentivise RBC by integrating considerations relating to RBC into its trade and investment promotion and facilitation policies, as well as into its trade and investment agreements.

4.2.1. Integrating RBC in Ecuador's trade and investment promotion and facilitation policies

Trade and investment policies are key to building an enabling policy environment for RBC. In particular, the inclusion of considerations that promote and enable RBC in trade and investment promotion and facilitation policies can contribute to incentivise responsible business practices by domestic companies wishing to export abroad, as well as by investors seeking to invest in the country.

Integrating RBC in Ecuador's trade and investment promotion and facilitation policies

Governments can promote trade and exports in different ways. For instance, in some countries, financial support is provided to national exporters competing in international markets through Export Credit Agencies (ECAs). Non-financial support can also be granted, for instance, by organising trade missions, which allow representatives of domestic firms wishing to export to travel overseas with government officials to promote their businesses. Likewise, capacity-building activities, or activities that facilitate access to information and networks through embassies can boost export opportunities (OECD, 2018, p. 55^[329]). These different types of support that governments provide to exporters can constitute avenues for promoting access to information on RBC and incentivise businesses to abide by RBC principles and standards (OECD, 2018, p. 56^[329]).

In Ecuador, there is no official or government-backed ECA granting financial support to exporters. Nonetheless, the Law on Tax Simplification and Progressivity (*Ley Orgánica de Simplificación y Progresividad Tributaria*, LOSPT), which entered into force in 2020, establishes tax reforms aimed at supporting export activities (Government of Ecuador, 2019^[330]). For instance, the LOSPT provides for a 50% tax deduction on export credit insurance subscribed with private sector actors,¹⁷⁵ and 100% of the

tax credit related to VAT can be used for exports and tourist services for foreigners (Government of Ecuador, 2019^[330]; 2020^[331]).¹⁷⁶ In addition, it establishes certain tax exemptions for the banana export industry (Government of Ecuador, 2019^[330]).¹⁷⁷ However, although the LOSPT stresses the important role that tax policy can play in promoting socially and environmentally responsible conduct and in incentivising activities that protect the environment in its preamble,¹⁷⁸ it does not set any RBC-related requirements to benefit from the exemptions and special deductions it provides for (Government of Ecuador, 2019^[330]).

Non-financial support to exporters is provided by Pro Ecuador, which is attached to the Vice Ministry for the Promotion of Exports and Investments at the Ministry of Production, Foreign Trade, Investments and Fishing (*Ministerio de Producción, Comercio Exterior, Inversiones y Pesca*, MPCEIP). Pro Ecuador is responsible for formulating and implementing regulations and policies related to export (and investment) promotion in Ecuador (Pro Ecuador, n.d.^[332]). It provides a wide range of support activities to exporters and potential exporters, including participation in international fairs and trade missions, as well as access to information, to help them promote their commercial activities abroad and identify business opportunities and trends in global markets (Pro Ecuador, n.d.^[333]). The level of assistance provided to exporters or potential exporters depends on the level of maturity of their export project and their experience in exports (Pro Ecuador, n.d.^[333]). Pro Ecuador has also developed training programmes for exporters, some of which are focused on fair and sustainable trade. For instance, in 2021, Pro Ecuador organised a training on the importance of sustainability for accessing the European market, and another on fair and sustainable trade as a business model that benefits farmers, artisans and consumers (Pro Ecuador, 2021^[334]; Pro Ecuador, 2021^[335]).

However, beyond these capacity-building programmes, Pro Ecuador does not seem to have taken significant measures to promote RBC and incentivise responsible business practices as part of its trade promotion efforts. Although several organisations in the popular and solidarity economy that have obtained social responsibility certifications have benefited from the support activities that Pro Ecuador provides to exporters,¹⁷⁹ those activities have not so far sought to encourage these organisations to adopt an RBC approach. For example, the Exporter's Guide (*Guía del Exportador*) prepared by Pro Ecuador provides information mainly on the technical aspects of preparing for exporting and does not mention any RBC-related requirements (Pro Ecuador, n.d.^[336]).

Ecuador could consider the possibility of resorting to its trade promotion policies as a lever to promote RBC. Such policies could be used not only to raise awareness among Ecuadorian exporters about how adopting responsible business practices can facilitate their access to foreign markets, but also to encourage their observance of RBC principles and standards, for instance, by linking the services of Pro Ecuador to the observance of these principles and standards.

Although Ecuador does not provide financial support to exporters, the non-financial support it grants to Ecuadorian companies wishing to export abroad can be used to promote RBC and encourage them to adopt responsible businesses practices. As a first step in this direction, Pro Ecuador could promote RBC principles and standards, particularly the OECD MNE Guidelines and the Due Diligence Guidance on RBC, on its website and on the documentation prepared for exporters, such as the Exporter's Guide. Likewise, Pro Ecuador could include specific courses on RBC in its training programme and, in particular, on the importance of conducting due diligence. The OECD MNE Guidelines could serve as a basis for this training, which could be designed in collaboration with the OECD Secretariat. Ecuador could go a step further and reserve access to trade missions, information, or business networks to companies that commit to observing RBC principles and standards. In this regard, Ecuador could follow the example of Germany, where the registration form for participating in trade missions refers expressly to the OECD MNE Guidelines and reaffirms the Government's expectation that German companies operating abroad respect RBC principles and standards (OECD, 2018, p. 19^[337]). A second example is the Dutch approach, where companies are required to demonstrate the observance of RBC principles and standards, such as the OECD MNE Guidelines, in order to access non-financial support, particularly to participate in trade missions (Government of the Netherlands, 2020^[338]).

Integrating RBC in Ecuador's investment promotion and facilitation policies

Investment can be attracted through promotion and facilitation policies. Promoting investment consists in marketing a country or a region as an investment destination, while investment facilitation entails making it easier for investors to establish, operate, or expand their investments in a country (OECD, 2018, p. 3_[339]). Investment can be promoted by building a positive image of the host country and directing investors to profitable investment opportunities (OECD, 2015, p. 39_[1]).¹⁸⁰ In turn, investment can be facilitated through a transparent, predictable and efficient regulatory and administrative framework for investment and by reducing the number of obstacles faced by investors that decide to invest in the country (OECD, 2015, p. 39_[1]; OECD, 2018, p. 3_[339]).¹⁸¹ These different services offered to investors can be used as tools to encourage the adoption of responsible business practices and thereby promote responsible investments (OECD, 2015, p. 18_[1]).

The PFI recognises, in this regard, that RBC is central to a good investment climate and that considerations relevant to RBC should play a part in investment policies (OECD, 2015, pp. 18, 75_[1]). It specifies that “[a]n investment climate that does not include respect for certain rules of [RBC], including relating to accepted international labour and environmental standards, risks being shunned by international investors and by foreign customers” (OECD, 2015, p. 18_[1]).

In recent decades, FDI in Ecuador has been low in comparison to international standards and mostly concentrated in the oil and agriculture sectors (UNCTAD, 2021_[340]). As a result, and in an effort to diversify its economy, in 2018 Ecuador declared investment promotion a priority through Executive Decree No. 252.¹⁸² This Decree stresses the need to promote sustainable investment in order to generate employment, eradicate poverty and achieve the objectives of the 2017–2021 PND, and to reorganise the institutional framework for investment to this effect. This led to the creation, in 2018, of the Strategic Committee for the Promotion and Attraction of Investments (*Comité Estratégico de Promoción y Atracción de Inversiones*, CEPAI), the highest government entity in charge of investment promotion policies in Ecuador.¹⁸³ A few years later, in 2021, Ecuador again declared that promoting and attracting investment (along with facilitating international trade) was a policy priority.¹⁸⁴ Moreover, through Decree No. 1295, amending Decree No. 252 of 2018, the composition and functions of the CEPAI were amended.¹⁸⁵ The CEPAI now consists of representatives of the MCPEIP, which chairs it, as well as of the Ministry of Economy, the MREMH, the National Planning Secretariat, and the Office of the Presidency.¹⁸⁶

The MCPEIP and, more specifically, the Vice Ministry for Export and Investment Promotion (*Viceministerio de Promoción de Exportaciones e Inversiones*), defines policies on promoting and attracting investment, as well as the Multi-Annual Strategic Plan for Investment Promotion (*Plan Estratégico Plurianual de Promoción de Inversiones*), which are then approved by the CEPAI.¹⁸⁷ At the time of writing, the MCPEIP was developing several policy projects and initiatives to improve the business climate and encourage, attract and promote investments in Ecuador, such as the 2021-2024 National Investment Policy Proposal (*Propuesta de Política Nacional de Inversiones*), and the Project for a National Investment Attraction and Facilitation System (*Proyecto de Sistema Nacional de Atracción y Facilitación de Inversiones*) (Government of Ecuador, 2022_[341]; _[342]). However, at the time of writing, those policies and initiatives were still in the design stage. Consequently, a complete picture of how Ecuador's investment promotion policies will unfold and of the strategic orientations on which they will be built is not yet available.

Notwithstanding, initiatives by the Government to date show that Ecuador has not started using its investment promotion policies to encourage the observance of RBC principles and standards by investors. Pro Ecuador, the national investment promotion agency (IPA), offers a wide range of services to potential investors, such as information on investment incentives and opportunities (Pro Ecuador, n.d._[332]). For instance, the “Ecuador Investment Destination Portfolio” (*Portafolio Ecuador Destino de Inversiones*), was created in 2018 to direct international and national investors and financial institutions to public and private investment opportunities in Ecuador in several sectors, including tourism (Government of Ecuador, n.d._[343]). However, the initiative does not seem to seek to incentivise potential investors in these projects

to adopt responsible business practices or to prioritise responsible investments, as it does not include any mention of RBC, and the observance of RBC principles and standards is not a requirement for potential investors to have access to the portfolio (Government of Ecuador, 2021^[344]). Moreover, in 2018, the Law for the Promotion of Production, Attraction of Investment, Generation of Employment, Fiscal Stability and Balance (*Ley Orgánica para el Fomento Productivo, Atracción de Inversiones, Generación de Empleo, y Estabilidad y Equilibrio Fiscal*) was enacted, among other things, to promote investments in certain priority sectors through tax incentives.¹⁸⁸ However, beyond referencing renewable energy as one of the priority sectors in which tax incentives can be obtained for new investments,¹⁸⁹ the Law does not create any link between these incentives and the observance of RBC principles and standards by investors.

The same is true for investment facilitation. For the time being, Ecuador does not seem to use its investment facilitation policies as a tool to promote RBC and incentivise responsible business practices by investors. For example, Pro Ecuador, in charge of providing assistance to investors to facilitate their establishment, issued an Investors' Guide (*Guía del Inversionista*) in 2018 that does not contain any reference to RBC, to the relevant international instruments, nor to any RBC-related requirement for investing in Ecuador (Pro Ecuador, 2018^[345]). Similarly, the new investment guide released by the MCPEIP in 2020 to provide prospective investors with essential information to facilitate their investments in Ecuador, including the existing investment incentives, does not include any specific reference to or information on RBC (Government of Ecuador, 2020^[346]).

Ecuador could consider leveraging the policies and initiatives that are currently under development with the objective to improve the business climate and encourage, attract and promote investment to start using investment facilitation and promotion as a means to promote RBC. In particular, it could consider the possibility of using the support granted to investors to raise their awareness on the importance of RBC, and to encourage them to observe the principles and standards in the field and, in particular, to carry out due diligence processes in the context of their investment projects.

The MCPEIP and the CEPAL can play an active role in the inclusion of considerations that promote and enable RBC in Ecuador's investment promotion and facilitation policies. The 2021-2024 National Investment Policy Proposal and the Project for a National System to Attract and Facilitate Investment could be excellent opportunities to prioritise the inclusion of considerations relevant for RBC in such policies and initiatives. Promoting RBC through these policies and initiatives would allow Ecuador to attract and retain high quality and responsible investors, reducing the risks of adverse impacts linked to investments and helping to improve the country's investment climate and to encourage the social acceptability of investment projects.

As Ecuador's IPA, Pro Ecuador could take concrete measures to promote RBC through its actions. IPAs usually coordinate many of the services offered to investors and, as a result, are able to link more easily such services to the observance of RBC principles and standards. They can be given a mandate to attract sustainable and responsible investments and, to that effect, they can integrate considerations that promote and enable RBC in the range of services, tools and mechanisms provided to investors in the different investment phases (OECD, 2018, p. 5^[339]; OECD, 2018, p. 102^[347]; Volpe Martincus and Sztajerowska, 2019, p. 81^[348]). IPAs can also prioritise sectors and types of investments on the basis of considerations relating to RBC (Volpe Martincus and Sztajerowska, 2019, p. 77^[348]). In addition, they can contribute to enhancing dialogue on investment between the public and private sectors, as well as with stakeholders, including local communities (OECD, 2018, pp. 89, 94-95^[347]). Likewise, the aftercare services provided by IPAs can be an opportunity to incentivise established investors to observe RBC principles and standards (OECD, 2018, p. 56^[347]). IPAs can also contribute to preventing disputes linked to investments, as they often include dispute resolution mechanisms as part of their aftercare services, such as structured troubleshooting with individual investors, conflict mitigation or ombudsman intervention, applicable to disputes between investors and authorities, but also between investors and local communities (OECD, 2018, p. 45^[347]).

Pro Ecuador and the MCPEIP could promote RBC principles and standards in the documentation they provide to potential investors, such as their respective Investors' Guide. These documents could raise investors' awareness to the OECD MNE Guidelines and the related Due Diligence Guidance. This would contribute to clarify the Government's expectations regarding RBC to investors. Such expectations would include not only investors' obligations under Ecuadorian law and their investment contracts, such as complying with environmental law, but also expectations contained in internationally recognised RBC principles and standards, such as the conduct of risk-based due diligence.

In addition, Pro Ecuador could be given the mandate to prioritise responsible investment throughout the different investment stages. For instance, following the example of certain IPAs of OECD member countries, Pro Ecuador could give priority access to its services to investors that abide by RBC principles and standards (OECD, 2018, pp. 65-66^[347]). Considerations relating to RBC could also be taken into account during the selection process of the projects included in the "Ecuador Investment Destination Portfolio", as well as to be given access to the portfolio.

The aftercare services provided by Pro Ecuador to investors already established in the country could also be an opportunity to encourage them to implement responsible business practices throughout their investment projects, in accordance with the OECD MNE Guidelines. For example, Pro Ecuador could require that, to access its services, investors commit to observe the recommendations in the OECD MNE Guidelines, as done by other IPAs. The Swedish IPA, for instance, requires that participants in its investment promotion activities strive to adhere to the OECD MNE Guidelines (Business Sweden, n.d.^[349]). Pro Ecuador could also refrain from providing services to investors established in the country that are known to fail to comply with RBC principles and standards, as done by an important number of IPAs in OECD countries (OECD, 2018, p. 82^[347]; Volpe Martincus and Sztajerowska, 2019, p. 108^[348]). Moreover, the Ombudsman or investment advocate envisaged under the Project for a National System to Attract and Facilitate Investment could help to promote RBC through engagement with stakeholders (Government of Ecuador, 2022^[341]). Such a dispute resolution mechanism could be used to encourage dialogue between investors and stakeholders and prevent conflicts that may emerge from RBC-related issues, particularly with local communities, throughout the implementation of investment projects.

Integrating considerations that promote and enable RBC in its investment promotion and facilitation policies could have several benefits for Ecuador. It could notably help to attract high-quality and responsible investors, thereby minimising the risks of investments' adverse impacts on people, the environment and society, as could occur in the past (see Section 4.2.2).

Policy recommendations

- 25. Use trade promotion policies to raise awareness among Ecuadorian exporters about how adopting responsible business practices can facilitate their access to foreign markets, but also to encourage their observance of RBC principles and standards, for instance, by linking the services of Pro Ecuador to the observance of these principles and standards.**
- 26. Leverage policies and initiatives currently under development with a view to promoting and attracting investment in order to start using investment promotion and facilitation as a means to promote RBC, using the support provided to investors to raise their awareness of the importance of RBC, and to encourage them to observe the principles and standards in the field and, in particular, to conduct due diligence in the context of their investment projects.**

4.2.2. Integrating RBC in Ecuador's trade and investment agreements

Trade agreements and investment treaties are another part of trade and investment policies that are crucial to building an enabling environment for RBC and to incentivising businesses to adopt responsible business practices.

These economic instruments increasingly include considerations relevant to RBC through different kinds of provisions. The first kind are provisions that deal, directly or indirectly, with the areas covered by the OECD MNE Guidelines, such as respect for human rights, the promotion of labour standards, the protection of the environment or the fight against corruption, and which reflect the signatories' commitments in relation thereto (hereinafter "sustainability provisions"). The second kind are clauses through which the signatories commit to encouraging businesses to observe internationally recognised RBC principles and standards (hereinafter "RBC clauses"). These provisions and clauses can have various effects that contribute to enabling and promoting RBC.¹⁹⁰

First, sustainability provisions have the potential to support and reinforce government policies and legal frameworks in areas covered by the OECD MNE Guidelines by buttressing the adoption of domestic laws and regulations in the human rights, labour, environmental or anti-corruption fields and their enforcement (Gaukrodger, 2021, pp. 10, 84, 86-94_[350]). In this way, they contribute to the development of a legal and regulatory framework that enables RBC. A clear example of this are provisions through which the signatories commit to incorporate and disseminate, in their domestic legal frameworks, internationally recognised principles and standards in these fields and/or to implement and enforce the related domestic laws and regulations. Another example is the provisions that seek to preserve the signatories' right to regulate in areas covered by the OECD MNE Guidelines, and which protect their policy space by allowing them to adopt new laws, regulations and policies aimed at pursuing public interest objectives without legal risks (Gaukrodger, 2021, pp. 84, 96-100_[350]). Provisions that prohibit the signatories from lowering or weakening their laws and regulations in these same areas to attract investment help prevent backsliding in these areas.

Second, RBC clauses can directly promote the observance of RBC principles and standards and the adoption of responsible business practices by "speaking to business" (Gaukrodger, 2021, pp. 84, 102-108_[350]). These clauses contribute to communicate and clarify governments' expectations that businesses adopt responsible business practices. They also often point to the specific internationally recognised RBC principles and standards that businesses should observe in general, but also sometimes in relation to due diligence.

Finally, sustainability provisions can facilitate access to remedy for victims of business-related adverse impacts. By promoting regulatory cooperation and/or intergovernmental consultations on matters linked to the areas covered by the OECD MNE Guidelines based on public communications, these provisions can contribute to resolve RBC issues and help remedy such impacts. Likewise, the fact that governments may, under some investment treaties, bring actions against investors, when the conditions for bringing such counterclaims under the applicable rules are met, constitutes another avenue through which remedies can possibly be obtained in case of harm linked to investors' operations.

The possible effects of including considerations relevant for RBC in trade and investment agreements are particularly important for Ecuador, in the light of its recent strategy of opening up to international trade and foreign investment. Having an enabling environment for RBC has become a key element in securing access to foreign markets and attracting foreign investment. More and more countries, including important trade and investment partners for Ecuador, are paying increasing attention to RBC issues. For this reason, as part of its future negotiations to conclude trade agreements and investment treaties,¹⁹¹ Ecuador would benefit from sending strong signals about its intention to be a reliable country of origin for imports and a safe destination for investment. Seeking to include considerations relevant for RBC in Ecuador's trade and investment agreements is one way of doing this.

Integrating considerations relevant to RBC in Ecuador's trade agreements

As of June 2021, Ecuador had concluded ten FTAs and partial scope agreements (PSAs) (Government of Ecuador, n.d.^[23]). While Ecuador is a party to some of the most advanced trade agreements in terms of sustainability provisions and RBC clauses, the large majority of its agreements do not include them. Only two of the trade agreements signed by Ecuador to date contain RBC clauses, and a few contain some sustainability provisions. The inclusion of sustainability provisions in Ecuador's trade agreements has evolved over the years and varies in terms of nature, scope and binding nature, in line with global trends in this field (Gaukrodger, 2020^[351]) (see Table 4.7).

Table 4.7. Inclusion of sustainability provisions and RBC clauses in Ecuador's trade agreements

Short title of the trade agreement	Date of signature	Status	Inclusion of sustainability provisions (Yes/No) and areas of the OECD MNE Guidelines covered by the provisions	Inclusion of RBC clauses (Yes/No)	Reference to internationally recognised RBC instruments (Yes/No)	Sustainability provisions or RBC clause subject to dispute settlement (Yes/No)
Ecuador-Chile FTA	13/08/2020	In force	Yes: full detailed chapters dedicated to labour rights, the environment, and anti-corruption (and gender)	Yes	Yes	No
Colombia/Peru/Ecuador-UK FTA	15/05/2019	In force	Yes: full detailed chapter dedicated to trade and sustainable development (TSD Chapter) dealing with labour rights and the environment	No	Yes	No
Ecuador-EFTA FTA	25/06/2018	In force	Yes: full detailed chapter dedicated to trade and sustainable development (TSD Chapter) dealing with labour rights and the environment	Yes	Yes	No
Ecuador-El Salvador PSA	13/02/2017	In force	No	No	No	N/A
Ecuador-Nicaragua PSA	05/07/2016	In force	No	No	No	N/A
EU-Colombia/Peru/Ecuador MTA	26/06/2012	In force	Yes: full detailed chapter dedicated to trade and sustainable development (TSD Chapter) dealing with labour rights and the environment	Yes	No	No
Ecuador-Chile PSA	10/03/2018	In force	No	No	No	N/A
Ecuador-Guatemala PSA		In force	No, except for cooperation provisions on the environment	No	No	N/A
Mercosur – Colombia, Ecuador and Venezuela ECA	18/10/2004	In force	No, except for an exception provision	No	No	N/A
Ecuador-Mexico PSA	06/08/1987	In force	No	No	No	N/A
Cartagena Agreement	26/05/1969	In force	No, except for cooperation provisions on the environment	No	No	N/A

Seven out of Ecuador's ten trade agreements currently in force were concluded with Latin American countries, mostly in the framework of the CAN and/or the ALADI. Most of these trade agreements are partial scope agreements, which cover specific trade matters but do not include all trade disciplines.¹⁹² As such, they rarely include considerations relevant for RBC. The few sustainability provisions integrated into these trade agreements are essentially provisions that aim to promote cooperation between the signatories, and only in one area covered by the OECD MNE Guidelines: the environment.¹⁹³ For instance,

the Ecuador-Guatemala PSA provides that cooperation between the signatories will aim to promote sustainable development, and to protect and preserve the environment, among other goals.¹⁹⁴ This PSA also states that the signatories can promote commercial activities aiming at preserving the environment. It also encourages mechanisms to strengthen cooperation on environmental matters with the aim to prevent and mitigate environmental harm.¹⁹⁵ Cooperation is also encouraged in the tourism sector, to promote initiatives that focus on respecting the integrity and interests of local communities.¹⁹⁶

A small number of these agreements incorporate, by reference, Article XX of the General Agreement on Tariffs and Trade (GATT), which allows the signatories to take measures that aim to protect human, animal or plant life or health and/or relating to the conservation of non-renewable natural resources.¹⁹⁷ This type of provisions contributes to protect the signatories' right to regulate in the public interest and to reinforce their domestic legal frameworks in areas covered by the OECD MNE Guidelines, including by protecting their policy space and ensuring that they can adopt new laws and regulations in these areas without contravening other provisions of the trade agreements.

Ecuador's other three trade agreements currently in force are FTAs signed with European countries that all integrate considerations of relevance to RBC through different types of sustainability provisions and RBC clauses.¹⁹⁸ It was only when Ecuador became a party to the 2012 EU-Colombia/Peru/Ecuador Multiparty Trade Agreement (MTA) in late 2016 that sustainability provisions and RBC clauses first appeared in Ecuador's network of trade agreements.

EU-Colombia/Peru/Ecuador MTA

The MTA with the EU is the first in Ecuador's network of trade agreements to include detailed sustainability provisions, which can reinforce the signatories' legislation, regulations and policies in areas covered by the OECD MNE Guidelines and hence contribute to the development and implementation of policy and legal frameworks that promote and enable RBC.

The agreement devotes an entire chapter to trade and sustainable development (TSD Chapter), which includes various provisions aimed at protecting labour rights and the environment. The signatories commit to strive to ensure high and effective levels of labour and environmental protection, while recognising their right to regulate in these fields.¹⁹⁹ They also undertake to uphold such levels of protection, and not reduce them to encourage trade and investment.²⁰⁰ Moreover, the signatories commit to effectively implement, with respect to labour rights, the internationally recognised core labour standards and the fundamental ILO Conventions that they have ratified²⁰¹ and, in relation to the environment, the multilateral environmental agreements to which they are parties.²⁰² The TSD Chapter also includes specific provisions in accordance with which the signatories undertake to preserve and use biological diversity,²⁰³ as well as fish resources,²⁰⁴ in a sustainable manner, and to promote the sustainable management of forest resources.²⁰⁵ Regarding climate change, the signatories agree to consider actions that contribute to mitigating climate change and adaptation objectives through their trade and investment policies.²⁰⁶

Although the general dispute settlement mechanism of the agreement is not applicable to the above-mentioned provisions of the TSD Chapter, the signatories established an intergovernmental Sub-Committee on Trade and Sustainable Development, responsible for ensuring the proper implementation of the TSD Chapter.²⁰⁷ The Sub-Committee is in charge, among other things, of submitting recommendations to the Trade Committee to ensure the implementation of the TSD Chapter, identifying areas of cooperation between the signatories in this regard, and promoting public participation.²⁰⁸ In this regard, the Sub-Committee organises an annual public session with CSOs to discuss matters related to the implementation of the TSD Chapter.²⁰⁹

To further its implementation, the TSD Chapter also establishes that matters arising out of its implementation are subject to multi-tier consultations.²¹⁰ Should an issue not be satisfactorily resolved through governmental consultations, a group of experts can be appointed to determine whether a signatory has complied with its obligations under the TSD Chapter.²¹¹ This mechanism can be used to voice

concerns on RBC issues and contribute to facilitating access to remedy, given that, when a matter is presented to a group of experts, any person with relevant information may present written submissions, which will be taken into account by the experts when preparing their report on the matter. The Sub-Committee on Trade and Sustainable Development is in charge of following up on the report and recommendations issued by the group of experts.²¹² By promoting the implementation of the TSD Chapter, these provisions also contribute to reinforcing the domestic legal framework of the signatories in the areas covered by the OECD MNE Guidelines.

In addition, the signatories recognise the importance of cooperation to contribute to the implementation of the TSD Chapter, particularly to the improvement of policies and practices related to labour and environmental protection.²¹³ These provisions can have a reinforcing effect on the signatories' domestic framework on RBC-related matters. Since their respective signatures of the 2012 EU-Colombia/Peru/Ecuador MTA, the EU and Ecuador, Peru and Colombia have cooperated on different matters pertaining to trade and sustainable development, including RBC. For example, the meetings of the Sub-Committee on Trade and Sustainable Development created under the TSD Chapter are a regular forum for exchanging experiences that contribute to strengthen the signatories' policies and legal frameworks in areas covered by the OECD MNE Guidelines through cooperation. During the fifth meeting of the TSD Committee, held in December 2018, Ecuador insisted on the importance of the signatories' incentivising good practices related to CSR and requested that there be further dialogues to learn more about the European Commission's efforts to encourage European companies to implement good business practices and CSR, in particular in the banana sector.²¹⁴ Following this request, the EU organised a workshop in Lima, in the framework of the RBCLAC Project, on sustainability in the banana supply chain, as noted during the sixth meeting of the TSD Committee, held in October 2019. During this meeting, the EU highlighted that one of the priorities in the implementation of the TSD Chapter is promoting CSR and noted the importance of the RBCLAC Project in this regard.²¹⁵ Subsequently, during the meeting held in November 2020, Ecuador made a brief presentation on its initiatives related to Business and Human Rights, which included the country's participation in the RBCLAC Project and the preparation of its NAP.²¹⁶ During its presentation, Ecuador discussed challenges faced by the country in terms of labour rights²¹⁷ and mentioned that, although the LOAH has been the subject of several unconstitutionality actions, it helped reduce informality in the country.²¹⁸ Ecuador signalled its efforts to increase the number of labour inspections, which amounted to over 7,000 in 2020.²¹⁹ Although the EU acknowledged these efforts, it underlined the importance of undertaking labour law reform and indicated that it was willing to cooperate with Ecuador on this. Both the EU and Ecuador agreed to hold bilateral meetings to address this particular issue.²²⁰ Through this cooperation mechanism, the EU also insisted on the need to improve working conditions in the banana sector in Ecuador (see Box 4.8).

Box 4.8. RBC-related complaints under Ecuador's trade agreements: the case of the banana sector and the EU-Colombia/Peru/Ecuador MTA

When available, public submissions under trade agreements – which may be triggered by irresponsible business practices – can lead to intergovernmental consultations and regulatory cooperation that have the potential to resolve RBC-related issues. The recent public submission filed in accordance with Chapter IX on Trade and Sustainable Development of the EU-Colombia/Ecuador/Peru MTA (TSD Chapter) in relation to the banana sector is illustrative of this potential.

Ecuador is one of the largest banana producers in the world. In 2020, banana production represented 24% of the country's total non-oil exports. The European Union (EU) is one of Ecuador's main export markets for bananas.¹ A large proportion of Ecuador's workforce and over a tenth of its population is economically tied to the production of bananas and its affiliated businesses.² However, the Ecuadorian

banana sector has been confronted with RBC issues. Some of these issues were recently raised through the public submissions mechanism available under the TSD Chapter.

On 31 March 2019, the Trade Union of Agricultural Workers and Farmers (*Asociación Sindical de Trabajadores Agrícolas y Campesiones*, ASTAC) brought a complaint before the European Commission motivated by alleged breaches of Ecuador's obligations related to labour and environmental matters under the TSD Chapter. Among these alleged violations were health risks related to chemical use in plantations, restrictions on the right to freedom of association, and the high level of informality that characterises the sector. In particular, the ASTAC claimed that, through three ministerial agreements from 2017 and 2018 that established specific contractual arrangements for the banana sector, Ecuador had lowered the labour protection standards for workers to incentivise trade, in breach of the Constitution and the MTA.³ Relying on the fact that the EU is the largest importer of Ecuadorian bananas, the ASTAC also pointed to the responsibility of the EU and European companies, including supermarket chains, for their role in these alleged labour rights violations.⁴

In its public submission, the ASTAC requested that immediate actions be taken to ensure respect for labour rights in Ecuador's banana sector, for example by suspending the use of dangerous chemicals in the plantations. It also demanded that Ecuador reform its labour laws to guarantee the right to freedom of association and suggested actions that should be taken to reinforce the overall protection of labour rights in the country. The complaint requested that intergovernmental consultations be carried out to assess the violations of the obligations set out in the TSD Chapter, with the support of a group of experts, and that, should they be confirmed, that the EU make the necessary recommendations to end them.⁵

As a result of the ASTAC's public submission, the Ecuadorian Office of the Ombudsman (*Defensoría del Pueblo*, DPE) carried out an investigation and issued a report in May 2019.⁶ This report confirmed the existence of labour rights violations in the banana sector and urged the Government to take the necessary measures to put an end to these violations. The DPE requested that the use of certain toxic chemicals be forbidden in banana plantations and that relevant government entities perform regular inspections of these sites to ensure compliance with labour rights and Ecuadorian laws.⁷ The DPE also underlined the need to reform the labour laws to reduce the minimum number of workers required to form a union.⁸ In October 2019, Ecuador submitted a report in response to the ASTAC's allegations, at the request of the EU.⁹ In this report, Ecuador argued that all the claims put forth by the ASTAC were unfounded and that it had made significant efforts to enforce its labour legislation properly and comply with its international obligations.¹⁰ It also requested that the European Commission present a report, given that the claim noted the role of European companies in the alleged labour rights violations.¹¹

Later on, at the November 2020 meeting of the Trade and Sustainable Development Sub-Committee of the EU-Peru/Colombia/Ecuador MTA, discussions focused on the progress made by the signatories in the implementation of the labour provisions of the TSD Chapter. Although the ASTAC's public submission was not expressly mentioned during this meeting, the EU stressed the need to pay particular attention to working conditions in the Ecuadorian banana sector. The EU and Ecuador agreed to hold bilateral technical meetings to address this particular issue.¹² The EU also underlined the need for labour law reform in Ecuador, in particular to implement the recommendations made by the ILO regarding the existing limitations on the right to free association, notably regarding the requirement to establish a trade union, and offered to cooperate with Ecuador in this regard (see Section 3.2.2).¹³

In relation to the above, it should be noted that, in November 2021, in connection with the Trade and Sustainable Development Sub-Committee meeting, Ecuador mentioned the ASTAC case, summarising the facts and proceedings before the Ecuadorian courts following the ASTAC's request to be recognised and registered as a trade union.¹⁴ In particular, it explained that, in May 2021, a court decision ordered the Ministry of Labour (*Ministerio del Trabajo*, MDT) to register the ASTAC as a union and to regulate the exercise of the right to organise by branch of labour and not only by company.¹⁵ Moreover, in the

information provided to the ILO Committee on the Application of Standards, regarding the application of the Freedom of Association and Protection of the Right to Organise Convention in May 2022, Ecuador indicated that, by ministerial agreement, the ASTAC was granted the status of legal entity in January 2022 and that the MDT was developing secondary regulations on the matter.¹⁶

However, several months later, during the preparation of this Review, the ASTAC claimed that, although it had been registered as a trade union by the MDT, the MDT had not yet regulated the exercise of the right to freedom of association by branch of labour. It also alleged that workers in Ecuador's banana sector continue to be exposed to the use of hazardous chemicals in banana plantations.

Notes:

1. Central Bank of Ecuador (2021), Información Estadística Mensual No. 2028, <https://contenido.bce.fin.ec/home1/estadisticas/bolmensual/IE Mensual.jsp>.
2. FAO (2016), Ecuador's Banana Sector under Climate Change, <http://www.fao.org/3/i5697e/i5697e.pdf>.
3. Queja de las trabajadoras y los trabajadores bananeros por violación de derechos en el marco del Acuerdo Comercial Multipartes de Colombia, Ecuador, Perú y la Unión Europea, 31 March 2019, pp. 14-16, <http://library.fes.de/pdf-files/bueros/quito/15298.pdf>.
4. *Ibid.*, p. 28.
5. *Ibid.*, p. 30.
6. DPE (2019), Informe de verificación de vulneraciones de derechos humanos en las provincias de producción bananera del Ecuador, <https://www.dpe.gob.ec/wp-content/dpecomunicacion/publicaciones/informe-12-04-2019-165338.pdf>.
7. *Ibid.*, p. 42.
8. *Ibid.*, p. 48.
9. Government of Ecuador (2019), Informe del Gobierno del Ecuador sobre el sector bananero en el país a raíz de la denuncia presentada por la ASTAC en el marco del Acuerdo Comercial Multipartes con la Unión Europea, Record No. MPCEIP-VCE-2019-0322-O.
10. *Ibid.*
11. *Ibid.*
12. VII Trade and Sustainable Development Sub-Committee Meeting, November 2020, Joint Minutes, p. 3, https://trade.ec.europa.eu/doclib/docs/2021/january/tradoc_159256.pdf.
13. *Ibid.*, p. 4.
14. *Ibid.*, p. 6.
15. *Ibid.*, p. 6. See also, Government of Ecuador (2021), Criminal chamber ruling from Pichincha Provincial Court in case No. 17981-2020-02407, <https://www.trabajo.gob.ec/wp-content/uploads/2022/01/Sentencia-17981-2020-02407p1.pdf?x42051>.
16. ILO (2022), Information on the implementation of conventions ratified by governments in the preliminary list of individual cases – Ecuador: Freedom of Association and Protection of the Right to Organise Convention, https://ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_845285.pdf.

Finally, the TSD Chapter is a first in the wider context of Ecuador's treaty network, as it is the first time that an RBC clause has been included. According to this clause, the signatories agree to promote best business practices related to CSR.²²¹ Although the clause is rather limited, given that it does not specify what constitutes these best practices, nor how the signatories may promote them, it still conveys the expectation that businesses should adopt responsible business practices.

The Ecuador-EFTA FTA

In its preamble, the 2018 Ecuador-EFTA FTA reaffirms the signatories' commitment to sustainable development, highlighting the importance of policy coherence in environmental and labour matters, the fight against corruption and the need for good corporate governance and CSR. It also contains references to RBC-related international instruments, such as the ILO's conventions and the UN Global Compact. Similar to the EU-Colombia/Peru/Ecuador MTA, the 2018 Ecuador-EFTA FTA includes a chapter on trade and sustainable development (TSD Chapter) with several sustainability provisions that can have various effects of relevance to RBC, as well as an RBC clause.

Some of the sustainability provisions can reinforce the signatories' policies and legislation in areas covered by the OECD MNE Guidelines and hence contribute to the development and implementation of policy and legal frameworks that promote and enable RBC. This is notably the case with the provisions through which the signatories commit to uphold their levels of labour and environmental protection,²²² as well as their international obligations under multilateral labour²²³ or environmental²²⁴ agreements, while reaffirming their right to regulate on environmental and labour issues.²²⁵ The same is true of the provisions through which the signatories agree to pay particular attention to developing measures to ensure occupational safety and health, decent work conditions, effective labour inspection systems and equality of treatment.²²⁶ With respect to the environment, this is also the case of the specific provisions on trade and climate change, in which the signatories recognise the importance of the United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement and commit to effectively implementing them.²²⁷ Likewise, the provisions through which they agree to cooperate on several environmental issues in addition to climate change – such as the conservation and sustainable use of biological diversity,²²⁸ the sustainable management of fisheries²²⁹ and the promotion of sustainable forest management²³⁰ – can have a similar effect.

In addition, the TSD chapter can encourage the observance of RBC principles and standards by businesses. It contains an RBC clause through which the signatories commit to encourage CSR practices and cooperation between enterprises in ways that are beneficial to the environment and contribute to sustainable development in its economic, environmental and social dimension.²³¹ However, similarly to the RBC clause in the EU-Peru/Colombia/Ecuador MTA, it does not specify what constitutes CSR practices and does not make reference to any specific RBC principles or standards, such as the OECD MNE Guidelines.

The Ecuador-Chile FTA

Following the trend of its agreements with European countries, Ecuador's latest trade agreement also integrates considerations relevant for RBC, but to a larger extent. The new agreement, which was concluded with Chile in 2020 and entered into force in 2022, reinforces the sustainability aspects of the previous agreement signed by the two countries in 2008. It is the most advanced agreement in Ecuador's network of trade agreements, in terms of integration of considerations relevant for RBC. The preamble reaffirms the signatories' commitment to sustainable development, the preservation of the environment and the protection of labour rights. In addition, the detailed chapters pertaining to several areas of the OECD MNE Guidelines and other related issues may contribute to promoting and enabling RBC in different ways.

The specific chapters dedicated to labour,²³² the environment²³³ and anti-corruption,²³⁴ as well as to gender,²³⁵ may reinforce the signatories' policies and legislation in these areas and thereby contribute to the development and implementation of policy and legal frameworks that underpin RBC.

In the labour chapter, for example, the signatories commit not to lower their labour standards in order to attract trade (and investment),²³⁶ while recognising their right to regulate in this field, including to modify their legislation.²³⁷ They also undertake to ensure that such legislation is consistent with internally recognised labour rights,²³⁸ and to implement the rights enshrined in the ILO Declaration on Fundamental Rights at Work.²³⁹ Additionally, the signatories commit to regulating working conditions (minimum wages, work hours, and occupational health and safety)²⁴⁰ and to making efforts to adopt policies that eliminate obstacles to the full participation of women and vulnerable groups in the labour market.²⁴¹ They also undertake to cooperate and exchange information and good practices on forced and child labour.²⁴²

Similarly, in the environment chapter, the signatories commit not to lower their environmental standards in order to attract trade (and investment) while still recognising their right to regulate environmental matters.²⁴³ They also undertake to maintain high levels of environmental protection aligned with multilateral environmental agreements.²⁴⁴ Additionally, the signatories commit to cooperate and exchange information

and good practices on various environmental topics, such as biological diversity,²⁴⁵ climate change,²⁴⁶ sustainable agriculture,²⁴⁷ and the participation of local and indigenous communities in environmental management and trade.²⁴⁸

The transparency chapter includes detailed provisions on anti-corruption through which the signatories commit to implement and enforce their anti-corruption laws,²⁴⁹ in addition to their international obligations, and to adopt measures to combat and sanction corrupt practices effectively.²⁵⁰ They also undertake to promote public officials' integrity²⁵¹ and the participation of the private sector and civil society in the fight against corruption.²⁵²

In the chapter on trade and gender, in addition to referring to SDG 5²⁵³ and reaffirming their international obligations on gender equality,²⁵⁴ the signatories undertake to adopt and efficiently implement their laws, regulations, policies and good practices pertaining to gender equality.²⁵⁵ They also commit to cooperate and exchange information and good practices on enhancing the capacity and conditions of women (including workers, businesswomen and small business owners).²⁵⁶

Nonetheless, the potential reinforcing effect of the above provisions on the signatories' policy and legal frameworks in areas covered by the OECD MNE Guidelines and related issues could be weakened by the fact that the labour, environment and gender chapters are not subject to the general dispute resolution mechanism of the FTA.²⁵⁷ Any matter arising under these chapters will have to be solved through consultations between the contact points established by each party or, if it cannot be solved this way, through consultations within the Labour, Environment or Gender Committees established under the FTA or, as a last resort, through consultations between the relevant ministers.²⁵⁸ Only the issues arising under the transparency chapter can be submitted to the general dispute resolution mechanism of the FTA, excluding the provisions on the observance of anti-corruption laws.²⁵⁹

In addition to having the potential to reinforce the signatories' policy and legal frameworks, the labour²⁶⁰ and environment²⁶¹ chapters of the Ecuador-Chile FTA include RBC clauses that can directly incentivise businesses to adopt responsible business practices. Through these clauses, the signatories commit to incentivise companies to incorporate RBC principles and standards in line with internationally recognised guidelines in the field into their internal policies.²⁶² In this respect, it is worth noting that these clauses do not make specific reference to the OECD MNE Guidelines, but that the RBC clause of the labour chapter expressly mentions the UNGPs and reaffirms the signatories' commitment to promote their implementation.²⁶³

Finally, the labour and environment chapters can potentially facilitate access to remedy for victims of business-related adverse impacts. For instance, through provisions on procedural safeguards for labour matters²⁶⁴ and access to justice for environmental issues,²⁶⁵ the signatories commit to ensuring access to fair, impartial and independent courts for matters related to the enforcement of their labour or environmental legislation,²⁶⁶ but also to guaranteeing that the parties can exercise their right of appeal for labour law issues.²⁶⁷ These provisions, which aim to enhance access to remedy in the signatories' respective jurisdictions, can help victims of labour or environmental rights' violations caused by companies to gain access to justice and contribute to increase businesses' accountability. Beyond this, the two chapters also create a new way to access remedy. They foresee the possibility for the public to file communications on labour²⁶⁸ and environmental issues.²⁶⁹ The signatories agree to communicate and make the process for presenting the public submission accessible to the public, including the contact point that will receive them.²⁷⁰ Ecuadorian and Chilean citizens and/or CSOs are thus entitled to file written submissions if they deem that one of the two countries is not implementing its obligations under the labour or environmental chapters. Such submissions will then be considered and answered in writing by the country at stake, following their internal procedures, and will be communicated to the other signatory.²⁷¹

This overview of the inclusion of considerations relevant for RBC in Ecuador's network of trade agreements demonstrates that, while Ecuador is a party to some of the most advanced trade agreements in terms of incorporation of sustainability provisions and RBC clauses, the large majority of its agreements do not

include them. The integration of these types of provisions and clauses in Ecuador's trade agreements seems to be largely dependent on the counterparty to the agreement. The trade agreements that include considerations relevant for RBC are those entered into with signatories that have developed their own policies in this regard, notably European countries and Chile. Adopting the practices of different trade partners allows for exposure to different approaches to the inclusion of considerations relevant to RBC, as well as a better understanding of the rationale behind each of them. Nonetheless, not adopting its own policy in this regard prevents Ecuador from establishing a coherent and uniform approach regarding the inclusion of considerations relevant to RBC in its trade agreements. This lack of coherence can result in legal uncertainty and related risks for both the Government and businesses.

Building on its willingness to open up to trade, Ecuador could consider the possibility of developing its own plan regarding the inclusion of considerations relevant to RBC in its trade policy and, in particular, in its trade agreements. More specifically, it could take advantage of its future trade negotiations or re-negotiations to seek to consistently include sustainability provisions and RBC clauses in its agreements.

Ecuador could achieve this, for instance, by developing its own model trade agreement or by setting out guidelines regarding the negotiation of future trade agreements that provide for the inclusion of sustainability provisions and RBC clauses. In addition to providing a coherent and uniform approach to the inclusion of considerations relevant to RBC in its trade agreements, developing such a strategy and disseminating it could contribute to facilitate trade negotiations, as more and more countries are sensitive to these matters and seek to incorporate sustainability provisions and RBC clauses in their agreements. While developing this strategy, it is important that Ecuador consult with various stakeholders in order to ensure not only the legitimacy and transparency of the process, but also to obtain relevant inputs and feedback (OECD, 2019^[352]).

Integrating considerations relevant to RBC into Ecuador's investment agreements

Between the 1990s and the early 2000s, Ecuador signed almost 30 bilateral investment agreements (BITs) with European and American countries (UNCTAD, 2021^[353]). However, in the 2000s, the dispute resolution mechanisms established by these BITs – known as investor-state dispute settlement (ISDS) and which allow foreign investors to bring claims before arbitral tribunals for violations of treaty obligations – began facing opposition in Ecuador. This situation was caused by the numerous claims brought by foreign investors against Ecuador before arbitral tribunals. Between 2008 and 2018, over 24 investment arbitration disputes against Ecuador were filed, amounting to more than USD 14 billion in claims. Most of these claims pertained to regulatory measures taken by the Government in the oil and mining sectors (Government of Ecuador, 2018^[354]). As a result of these disputes, Ecuador had to pay large sums of compensation to foreign investors. For example, in 2012, it was ordered to pay USD 1,769,625,000 to US oil company Occidental, representing one of the highest amounts of damages awarded by an arbitral tribunal in an investment arbitration case (although the award was later partially annulled, reducing the amount of compensation by 40%).²⁷²

The country's opposition to BITs was closely linked to another investment arbitration case, *Chevron vs. Ecuador*, which became one of the highest-profile, longest-running and most controversial environmental cases worldwide.²⁷³ The case arose from a claim filed in 2003 by residents of the Lago Agrio region before the Ecuadorian courts, and from their subsequent decision to order Chevron to pay a high compensation for the environmental harm allegedly caused by the oil operations of Texaco, later acquired by Chevron.²⁷⁴ Chevron alleges, among other things, corruption and fraud in the Ecuadorian court proceedings and, in September 2009, it brought an investment arbitration case against Ecuador for denial of justice, among other considerations, on the basis of the Ecuador-US BIT.²⁷⁵ More than ten years after the Ecuadorian courts' ruling, the arbitration proceedings remain pending, and the harm to the environment has yet to be remedied (Government of Ecuador, 2020^[355]).

Likewise, debates around BITs in Ecuador were reinforced by two other investment arbitration cases that highlighted the adverse impacts that foreign investors' operations may cause or contribute to. In these cases, despite having been ordered to compensate the investors, Ecuador obtained the first compensation for environmental damage awarded to a State in relation to the adverse environmental impacts caused by the operations of the foreign investors at stake (see Box 4.9).

Box 4.9. RBC-related issues under Ecuador's investment agreements

The environmental counterclaims in the *Burlington vs. Ecuador* and *Perenco vs. Ecuador* cases

Counterclaims by a State against a foreign investor can help facilitate access to remedy for victims of business-related adverse impacts. Some governments have tried to bring such claims under the dispute resolution mechanism between investor and State created by bilateral investment treaties (BITs). However, such claims are not generally possible under BITs, which provide only for investor claims against States, except in limited circumstances, such as in the *Burlington vs. Ecuador* and *Perenco vs. Ecuador* cases.

In 2008, US oil and gas company Burlington Resources (Burlington) and its consortium partner, French oil company Perenco Ecuador Limited (Perenco), initiated separate investment arbitration proceedings. The companies sought to challenge an Ecuadorian taxation rule imposed on excess profits resulting from oil exploitation (known as Law 42). This tax on extraordinary income from oil prices allegedly affected the companies' investment in Ecuador.

In 2011, Ecuador filed counterclaims against both companies, claiming that the consortium's activities had caused significant environmental harm during its operations, for which compensation was required. More specifically, Ecuador claimed that both companies were liable under Ecuadorian tort law for soil remediation, groundwater remediation, and the abandonment of wells causing mud pits, requiring compensation of around USD 2.5 billion. Exceptionally, the disputing parties entered into agreements conferring jurisdiction over the counterclaims to the arbitral tribunals.¹

After lengthy proceedings, the arbitral tribunal in the Burlington case found Ecuador liable for having unlawfully expropriated Burlington's investment and ordered it to pay damages of USD 380 million. However, the tribunal also ordered Burlington to pay USD 41 million to Ecuador as compensation for environmental and infrastructure damage.² In the Perenco case, Ecuador was also found liable for having breached its contractual obligations and the applicable BIT, and ordered to pay USD 449 million, but Ecuador was awarded a further USD 54 million to compensate for the costs of restoring the environment.³

These cases are remarkable, as they enabled Ecuador to obtain compensation for the environmental harm caused by foreign investors' operations. In fact, the Burlington case was the first case in which an ICSID tribunal held the claimant investor liable for environmental harm on the basis of a counterclaim from the respondent State. While these cases involved an exceptional agreement between the parties regarding the tribunals' jurisdiction over counterclaims in the context of investor-state dispute settlement (and are therefore of limited precedential value in this regard), they are important examples of compensation in a situation of adverse impacts caused by foreign investors' operations.

It should be noted, however, that even if the State obtained compensation from the foreign investors for environmental damage on the basis of its counterclaims, this does not mean that actual victims – for example, the victims of the environmental contamination – will have access to remedy, unless the State uses the compensation received to undertake environmental restoration.

Notes:

1. International Institute for Sustainable Development, *Burlington vs. Ecuador*, 18 October 2018, <https://www.iisd.org/itn/en/2018/10/18/burlington-v-ecuador>. In the Burlington and Perenco cases, the parties entered into agreements conferring jurisdiction over the counterclaims to the tribunals. See *Burlington Inc. vs. Republic of Ecuador*, ICSID Case No. ARB/08/5, Decision on Liability (14 December 2012), paragraph 93; *Perenco Ecuador Ltd vs. The Republic of Ecuador and Petroecuador*, ICSID Case No. ARB/08/6, Interim Decision on the Environmental Counterclaim (11 August 2015), paragraphs 9 and 19.
2. *Burlington Resources vs. The Republic of Ecuador*, ICSID Case No. ARB/08/5, Decision on Ecuador's Counterclaims, <https://www.italaw.com/sites/default/files/case-documents/italaw8207.pdf>.
3. *Perenco Ecuador Limited vs. The Republic of Ecuador*, ICSID Case No. ARB/08/6, Award, paragraph 899, <https://www.italaw.com/sites/default/files/case-documents/italaw10838.pdf>.

As explained by the Permanent Representative of Ecuador to the UN in Geneva between 2014 and 2017 (Truthout, 2016^[356]), these two investment arbitration cases, and others such as those mentioned above, sparked changes in Ecuador's international policy. Concerns about investment treaties and the conduct of foreign investors were among the factors that led Ecuador to take a leading role in advocating for the international regulation of the activities of MNEs in order to provide protection and remedy to victims of adverse impacts related to such activities (see Box 2.2 in Section 2.2).

At the national level, the legal and financial risks associated with BITs – that these investment arbitration cases brought to the fore – had the consequence that investment treaties were increasingly perceived as restricting the country's regulatory powers (CAITISA, 2017, p. 21^[357]). For this reason, the Constitution promulgated in 2008 prohibited the Government from entering into agreements with dispute resolution provisions that could be considered as a waiver of sovereign jurisdiction.²⁷⁶ Ecuador subsequently began terminating its 29 BITs (of which two never entered into force), with nine of them terminated in 2008 and another in 2010 (CAITISA, 2017, p. 24^[357]). However, the country remained subject to the obligations contained in these terminated BITs for 5 to 25 years, depending on the survival clauses²⁷⁷ included in each of the BITs (CAITISA, 2017, p. 25^[357]). Ecuador also became the second country to withdraw from the Convention on the Settlement of Investment Disputes between States and Nationals of other States (ICSID Convention) – which provides a framework for the conduct of investor-state arbitration – in July 2009 (CAITISA, 2017, p. 29^[357]). In accordance with Article 71 of the ICSID Convention, the denunciation took effect in January 2010, six months after the receipt of Ecuador's notice of withdrawal.

Following this first set of measures, in 2013, Ecuador created the Ecuadorian Citizens' Commission for a Comprehensive Audit of Reciprocal Investment Protection Treaties and of the International Arbitration System for Investments (*Comisión para la Auditoría Integral Ciudadana de los Tratados de Protección Recíproca de Inversiones y del Sistema de Arbitraje Internacional en Materia de Inversiones*, CAITISA) (Government of Ecuador, 2013^[358]). CAITISA gathers government officials, academics, lawyers and civil society groups. CAITISA published its findings on the effects of BITs in May 2017 (Government of Ecuador, 2017^[359]). It found that investment treaties had failed to attract additional investment or advance the country's development plan. It also found that they had diverted millions of dollars of government budget to provide for the State's legal defence in costly investment arbitration proceedings (CAITISA, 2017, pp. 61, 64^[357]). The report also concluded that the operations of foreign investors, including oil companies, had caused adverse impacts on human and labour rights and the environment (CAITISA, 2017, p. 75 et s^[357]). CAITISA ultimately recommended that Ecuador terminate its remaining BITs. It also recommended that Ecuador negotiate new instruments, either specific contracts with foreign investors or a new type of investment treaty, which would depart from the traditional investor-protection approach of BITs by including rights for States and obligations for investors (CAITISA, 2017, pp. 99-107^[357]).

Based on CAITISA's recommendations, Ecuador completed the process of terminating its remaining 16 BITs still in force in 2017 (IISD, 2017^[360]).²⁷⁸ In addition, further to these recommendations, in March 2018, the MREMH presented a new model bilateral investment agreement (*Convenio Bilateral de Inversión*, CBI) (Government of Ecuador, 2018^[361]). The purpose of this new model was to strike a better

balance between the rights and obligations incumbent upon the State and those incumbent upon foreign investors (Government of Ecuador, 2018^[361]). In this context, the model CBI not only granted rights to investors but also included considerations relevant to RBC, by obliging companies to respect human and environmental rights. It also recognised the State's right to regulate in the public interest and provided that investors would lose their protection under the CBI should they be involved in corrupt acts (Government of Ecuador, 2018^[361]).

Additionally, following the termination of all of its traditional BITs, Ecuador signed one new investment agreement, with Brazil. The 2019 Ecuador-Brazil Cooperation and Facilitation Investment Agreement (CFIA), which has yet to enter into force, is based on Brazil's model investment agreement. This model places considerations relating to RBC at its core. Its preamble stresses that investments have an essential role to play in economic growth, poverty reduction, job creation, the expansion of productive capacity and human development, and reaffirms the right of the signatories to regulate investments in their territory.²⁷⁹ The CFIA includes several sustainability provisions that can reinforce the signatories' policies and legislation in areas covered by the OECD MNE Guidelines and hence contribute to the development and implementation of policy and legal frameworks that promote and enable RBC. This is notably the case for provisions that preserve the signatories' right to regulate by providing that nothing in the agreement should prevent them from adopting or enforcing non-discriminatory measures aimed at ensuring that investment activities are undertaken in accordance with their environmental, health and labour legislation.²⁸⁰ These provisions contribute to protect the signatories' policy space and ensure that new laws, regulations and policies aimed at pursuing public interest objectives can be adopted by the signatories without legal risks. The CFIA also focuses on dispute prevention and provides for a state-to-state dispute resolution mechanism, omitting the ISDS mechanism.

Moreover, the 2019 Ecuador-Brazil CFIA includes a two-part RBC clause. First, the clause affirms that investors and their investments shall make their best efforts to maximise their contribution to the sustainable development of the host state and the local communities by adopting socially responsible practices.²⁸¹ Second, the clause lists the RBC principles and standards that companies should strive to comply with in this context.²⁸² This includes, among others: promoting economic, social and environmental progress in order to achieve sustainable development; respecting the human rights of the persons involved in the company's activity; strengthening local capacity-building through close cooperation with local communities; developing and implementing good corporate governance practices; and encouraging, when possible, business partners, including direct providers and subcontractors, to apply RBC principles.²⁸³ This RBC clause, which is subject to the CFIA's general state-to-state dispute resolution mechanism, has the potential to influence business conduct and promote responsible business practices. It not only contributes to communicate and clarify the governments' expectations on RBC to businesses, but also pinpoints the specific principles and standards that businesses should implement. It also allows governments to take business conduct into account in the context of considering recourse to dispute settlement.

Despite the foregoing, and although public opinion remains divided on the benefits of re-becoming part of this dispute resolution system to attract more foreign investors, in August 2021, Ecuador ratified again the ICSID Convention in an effort to improve its investment climate (Cleary Gottfried, 2021^[362]; ICSID, 2021^[363]). In addition, according to information provided by the MREMH during the preparation of this Review, the Government intends to sign new BITs and has initiated negotiations with Spain based on its CBI model.

Ecuador should place RBC at the centre of its renewed efforts to attract foreign investment with a view that said investment be responsible and sustainable. To this end, building on the work carried out to develop its Bilateral Investment Agreement model (Convenio Bilateral de Inversión), and its experience negotiating the Cooperation and Facilitation Investment Agreement with Brazil, it should consider the possibility of developing, with the effective participation of businesses and other stakeholders, a long-term agreed strategy on the inclusion of sustainability provisions and RBC clauses in its investment treaties, and disseminate it.

It is important that, in developing this strategy, Ecuador endeavours to involve and ensure the active participation of the private sector and other stakeholders in order to be able to take their concerns and views into consideration. In addition, the development of such a strategy should be undertaken so as to achieve national consensus on how to include sustainability provisions and RBC clauses in investment treaties to address the concerns these have generated in recent decades and to ensure the stability in the long-term of the policy approach in this area.

The inclusion of sustainability provisions and RBC clauses in investment agreements is essential for building an enabling policy and regulatory environment for RBC (Gaukrodger, 2021^[364]). Promoting such integration over time, through a dedicated State strategy that is not subject to changes of government, can serve to protect the right of signatories to regulate in RBC-related areas, such as human and labour rights or environmental protection, and thus contribute to reduce the legal and financial risks of facing claims before investment arbitration tribunals. It can also contribute to strengthen the country's legal framework and policies in the areas covered by the OECD MNE Guidelines. At the same time, it promotes responsible business practices by clarifying the Government's expectations on RBC and signalling to Ecuadorian businesses, as well as to businesses trading with or investing in Ecuador, the RBC principles and standards they should adopt and implement, and therefore helping to reduce the risks of adverse impacts associated with investment projects. In addition, in some cases it can indirectly facilitate access to remedy for victims of adverse impacts. More generally, sustainability provisions and RBC clauses can serve as a lever to draw the attention of public officials, foreign investors and other stakeholders to the importance of responsible business practices in investment, and raise their awareness about internationally recognised RBC principles and standards.

Moreover, the development of this long-term strategy and its dissemination is fundamental for Ecuador's plans to diversify its economy by attracting foreign investment. It would send a strong signal about the importance that Ecuador attaches to the adoption of responsible business practices in investment projects, something that is becoming increasingly relevant for Ecuador's investment partners and for foreign investors, who are more and more basing their investment decisions on countries' legal frameworks and on whether or not they incorporate internationally recognised RBC principles and standards. Finally, this strategy would be aligned with and support Ecuador's efforts in recent years to advance the Business and Human Rights agenda, particularly in the framework of the negotiations to elaborate an international legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises.

Policy recommendations

- 27. Develop a specific plan regarding the inclusion of considerations relevant to RBC in trade policy and, particularly, in trade agreements, taking advantage of future negotiations or re-negotiations to seek to consistently include sustainability provisions and RBC clauses in such agreements.**
- 28. Place RBC at the centre of efforts to attract foreign investment, developing and disseminating a long-term agreed strategy on the inclusion of sustainability provisions and RBC clauses in investment treaties, with the effective participation of businesses and other stakeholders.**

5 Moving towards an enabling environment for Responsible Business Conduct in Ecuador

Taking measures towards the creation of an enabling environment for RBC could generate a number of different benefits for Ecuador. First, creating such an environment can support the recovery from the crisis triggered by the COVID-19 pandemic, which hit Ecuador particularly hard. (Government of Ecuador, 2021, pp. 15-17^[46]). The OECD has shown that strengthening and incentivising RBC can help countries recover from the COVID-19 crisis more quickly, lastingly and sustainably (OECD, 2020^[365]). Promoting RBC should therefore be one of the key elements of Ecuador's plans to address the consequences of the pandemic. It would also help to ensure that companies in the country identify the points of their operations and of their GVCs that deserve attention and that have been highlighted by the crisis, and that they are better prepared to face future crises and disruptions in GVCs (OECD, 2020^[365]).

Furthermore, the creation of an enabling environment for RBC can support Ecuador's recent growth and development strategy based on the diversification of its economy and sustainability through greater openness to trade and foreign investment (Government of Ecuador, 2021, pp. 51-53^[46]). Nowadays, there are increasing expectations, and even legal obligations, that MNEs observe RBC principles and standards and carry out due diligence processes to prevent the adverse impacts that their operations, supply chains and business relationships may cause on people, the planet and society. As a result, companies that operate globally increasingly decide to do business in countries that present lower risks of adverse impacts and/or with suppliers that abide by internationally recognised environmental and labour standards (OECD, 2016^[2]). Similarly, investors often base their investment decisions on countries' domestic legal frameworks and whether they incorporate internationally recognised RBC principles and standards (OECD, 2016^[2]). Therefore, to integrate successfully into GVCs, it is becoming increasingly important that a country is perceived as a reliable and safe destination to trade with, supply from, or invest in. In the case of Ecuador, this is paramount, given that two of its largest trading partners for exports – the US and the EU – are paying increased attention to RBC issues, as reflected in the fact that the European Commission is developing legislation for companies to respect human rights and the environment in global supply chains (European Commission, 2022^[366]; Observatory of Economic Complexity, n.d.^[367]). In this context, it is necessary to leverage RBC and incentivise companies operating in or from Ecuador to observe RBC principles and standards in order to increase their opportunities for doing business with multinational companies, strengthening their access to export markets, and promoting their integration into GVCs, reducing their operational, legal, financial and reputational risks. Similarly, regulating and enforcing in favour of RBC is essential, so that companies that want to invest in Ecuador perceive that they can do so without great risks. Thus, although Ecuador has not yet adhered to the OECD MNE Guidelines, promoting the use of the OECD's RBC instruments is of particular importance for the country, especially when considering that the vast majority of its trade and investment partners have adhered to these instruments and have the expectation that the RBC principles and standards contained therein be observed.

Finally, creating an enabling environment for RBC is aligned with, and can even support, several of Ecuador's strategic orientations. To give a few examples, this is the case of Ecuador's commitment to make progress towards the achievement of the SDGs (Government of Ecuador, 2021, pp. 108-114_[46]). As acknowledged by the 2030 Agenda, businesses have a role to play in sustainable development and they should participate in the achievement of the SDGs. However, in recent years, it has become apparent that businesses' contribution to solving sustainable development challenges needs to be enhanced. The creation of an enabling environment for RBC can help mobilise and direct private resources in Ecuador towards the achievement of the SDGs. Another example is the overarching objective of the Plan of Action for the Mining Sector to develop efficient and socially responsible mining (Government of Ecuador, 2021, p. 3_[104]). An enabling environment for RBC is essential for the Government to meet its commitment to encourage the adoption of socially and environmentally responsible practices, as well as the respect for labour rights, and to enhance access to grievance mechanisms, in the mining sector (Government of Ecuador, 2021, p. 5_[104]). Finally, the creation of an enabling environment for RBC would also be aligned with and support Ecuador's efforts in recent years to advance the Business and Human Rights agenda, particularly in the framework of the negotiations to develop an international legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises.

5.1. Seizing opportunities and addressing the challenges to build an enabling environment for RBC

In recent years, Ecuador has taken measures to promote and enable RBC in various fields. The country is a party to the main international instruments of relevance to RBC. Although it has not yet adhered to the OECD MNE Guidelines, Ecuador is considering the possibility of requesting to become an Adherent, according to information provided by the Government during the preparation of this Review. A decision in this direction would be in line with Ecuador's leading role in the framework of the negotiations to develop an international legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises. At the national level, Ecuador has developed its legal framework to regulate business conduct and seek to prevent business-related adverse impacts in several areas covered by the OECD MNE Guidelines. For example, in 2008, Ecuador became one of the few countries to grant broad constitutional rights to nature, in addition to the right to live in a healthy and ecologically balanced environment, and to establish in the Constitution that each of the actors involved in the processes of production, distribution, commercialisation and use of goods and services – which includes businesses – must prevent any environmental impact, mitigate and repair any harm they have caused, and maintain a system of ongoing environmental control. In addition, Ecuador has developed policies that tend to support responsible business practices. The most recent PNDs address several areas relevant for RBC such as human rights, the environment and integrity. Another, more specific, example for a key sector of Ecuador's economy is the 2021 Action Plan for the Mining Sector, whose primary objective is to develop efficient and socially responsible mining, and in which the Government undertakes to encourage the adoption of socially and environmentally responsible practices, as well as the respect for labour rights, and to enhance access to grievance mechanisms, in the mining sector. However, a particularly significant milestone in this respect is the decision taken by Ecuador in 2020 to begin developing a NAP on Business and Human Rights, as this represents an important opportunity to create an enabling environment for RBC in the country through an overarching and cross-cutting State policy.

Despite the foregoing, major challenges persist to ensure that businesses operating in or from Ecuador observe RBC principles and standards. The results of the business survey on RBC in Latin America and the Caribbean, carried out by the OECD in 2020, revealed that only half of the companies surveyed in Ecuador had adopted a written policy and/or management systems on one of the areas covered by the OECD MNE Guidelines. This is partly because most of the companies in the country are SMEs that do not

have the resources, capacity, or simply the knowledge required, to observe RBC principles and standards and to carry out due diligence. The country also has high levels of informality, which represents an additional barrier to RBC, since informal enterprises are outside the scope of legal frameworks and are more likely to cause or contribute to adverse impacts, particularly on their workers' rights, who often do not have social protection. The challenges are particularly acute in a sector that is of great importance to the Ecuadorian economy – the extractive sector. In recent years, there have been several examples of cases where the operations of oil or mining companies in Ecuador have caused or contributed to adverse impacts on the human rights of local communities and the environment, generating major social conflicts. This shows that, although Ecuador has developed a legal framework governing business conduct in the areas covered by the OECD MNE Guidelines, there are gaps in that framework, and it is often not being effectively implemented. The fact that Ecuador does not yet have a law on the FPIC of indigenous, Afro-Ecuadorian and Montubio peoples and nationalities, or a policy for the protection of the rights of human and nature rights defenders, is an example of these gaps. Recent cases of forced or child labour, in turn, highlight the shortcomings in the implementation of the labour legal framework. Similarly, the levels of corruption in the country and the difficulties in establishing a coordinated interinstitutional framework to combat the phenomenon in recent years indicate that Ecuador does not have sufficient institutional capacity to address certain RBC issues. Strengthening that capacity, through interinstitutional cooperation and coordination, and by having public officials from various relevant government entities acquire knowledge on RBC, is essential to lay the foundations for the creation of an enabling environment for RBC.

5.2. Taking steps towards the construction of an enabling environment for RBC

Building an enabling policy and regulatory environment for RBC requires aligning different policies so that they all contribute to promoting and enabling responsible business practices. It entails enhancing policy coherence between the different policy areas covered by the OECD MNE Guidelines, but also between other relevant policies through which the Government can leverage and incentivise RBC. This demands coordination and cooperation across multiple ministries and government agencies, in order to create synergies and mainstream RBC principles and standards in the various legislation, regulations, policies and initiatives that can shape business conduct.

Developing a NAP – as Ecuador was doing at the time of writing – represents a significant step towards achieving policy coherence on the human rights-related aspects of RBC. An overarching government policy presents an excellent opportunity to align and promote coherence between the legislation, regulations, policies and initiatives of the different ministries and government entities responsible for the various policy areas of relevance to RBC. This includes, among others, corporate governance, human rights, labour rights, environment, corruption, consumer interests, science and technology, competition, taxation, but also public procurement, SOEs, and trade and investment.

Building an enabling environment for RBC can only be achieved with meaningful involvement from businesses and other stakeholders through effective engagement, social dialogue, consultation and cooperation. This is particularly important for any future NAP development process. Engaging with businesses, trade unions, CSOs, representatives of indigenous, Afro-Ecuadorian and Montubio peoples and nationalities, as well as with academia, is essential to gaining a better understanding of the issues, gaps and needs and, on this basis, designing and/or reviewing policies to ensure that they respond to such issues, gaps and needs and have the necessary buy-in. The Government has an important convening role to play, and it should communicate and interact on an ongoing basis with stakeholders in order to take their views and concerns on RBC into consideration. Through this role, it can also promote and facilitate collective initiatives from the private sector, trade unions and civil society aimed at encouraging businesses to adopt responsible practices, and monitor the implementation of such practices.

5.3. Policy recommendations to build an enabling environment for RBC

Beyond these general considerations, the creation of an enabling policy and regulatory environment to drive, support and promote responsible business practices in Ecuador can be achieved through two specific policy orientations:

- On the one hand, it is essential that the Government regulate business conduct in the areas covered by the OECD MNE Guidelines through adequate legislation, regulations and policies, and ensure they are enforced.
- On the other hand, it is equally important that the Government leverage RBC and incentivise the observance of RBC principles and standards by businesses, by leading by example in its role as economic actor or by including considerations relating to RBC in other relevant policy areas that can shape business conduct.

The present RBC Policy Review formulates a series of concrete and actionable recommendations aimed at providing support to the Government of Ecuador in the progressive implementation of these two policy orientations.

However, to build an enabling environment for RBC in Ecuador, it would also be essential that Ecuador adhere to the OECD MNE Guidelines. Such an adherence would allow Ecuadorian companies, as well as companies operating in or from Ecuador, to have access to the broadest set of government recommendations on how to act responsibly in all areas of potential business responsibility, including human rights, employment and industrial relations, environment, information disclosure, bribery and corruption, consumer interests, science and technology, competition, and taxation. It would also give Ecuador the opportunity to benefit from peer learning, as well as from analysis of the OECD Secretariat on RBC matters, in the framework of the OECD Working Group on RBC that brings together the 51 Adherents to the OECD MNE Guidelines.

It should be noted that, by following the recommendations made in this RBC Policy Review, Ecuador would be taking steps to implement several of its international and national commitments. Some of these recommendations are aligned with the commitments related to RBC that Ecuador has undertaken in signing certain trade agreements, such as the EU-Colombia/Peru/Ecuador MTA. Other recommendations contribute directly and indirectly to the implementation of some of the objectives and policies of the 2021-2025 PND, such as, for example, to strengthen trade links with partners and countries of potential markets and to promote a suitable business environment that allows to attract investment, for which, as noted above, having an enabling environment for RBC is fundamental (Government of Ecuador, 2021, p. 52^[46]). All recommendations are relevant, and constitute inputs that should be taken into account, for the development of Ecuador's NAP.

Policy recommendations

Adhere to the OECD MNE Guidelines

Regulate and enforce in support of RBC

Human rights

1. Continue moving forward with the development process of the National Action Plan on Business and Human Rights (NAP) and conclude it as soon as possible, ensuring the meaningful and balanced engagement and participation of all relevant government entities, as well as of all stakeholders.
2. Strengthen judicial and non-judicial grievance mechanisms to allow effective access to remedy in cases of adverse human rights impacts related to business activities, in particular by providing the DPE with the necessary resources to exercise its competences and play a key role in the elaboration of the NAP, which must include effective access to remedy as an essential component.
3. Finalise, adopt and implement a legislative framework that guarantees the right of indigenous, Afro-Ecuadorian and Montubio peoples and nationalities to free, prior and informed consent in the context of business projects, and take measures to prevent and address the possible impacts of large-scale projects on the rights of these groups, encouraging businesses to carry out due diligence in accordance with the OECD Due Diligence Guidance.
4. Finalise, and take measures to implement, the comprehensive policy for the promotion and protection of the rights of human and nature rights defenders, and encourage businesses to pay special attention to their situation when carrying out due diligence processes. Ensure that human and nature rights defenders who have been affected by adverse impacts in the past can have access to remedy.

Labour rights

5. Further strengthen the legal and institutional framework for the protection of labour rights and ensure that adequate resources are dedicated to labour inspections.
6. Complete the reform of the Regulation on Labour Organisations and consider the possibility of amending the labour legal framework so that it is aligned with international labour standards on freedom of association, the right to organise and collective bargaining.
7. Continue efforts aimed at combatting child labour, ensuring that the policy proposal of the 2021-2025 Agenda for Intergenerational Equality is reflected in an instrument and/or in policy actions, and that a successor project to the Project for the Eradication of Child Labour (*Proyecto de Erradicación del Trabajo Infantil*, PETI) is implemented. Continue cooperating with the private sector in this area, encouraging businesses to carry out due diligence to identify, prevent and mitigate adverse impacts on the rights of children and adolescents.
8. Ensure compliance with the legal framework on forced labour, developing policies and specific initiatives in this area, and allocating sufficient resources to monitor their effective implementation. Engage the private sector in combatting forced labour through the conduct of due diligence processes, which is key for reducing the risks of forced labour in businesses' operations, supply chains or business relationships.

9. Continue efforts to promote gender equality and combat gender-based violence in the workplace, ensuring the effective implementation of the legal and policy framework in this area. Develop initiatives to raise awareness among businesses of gender issues, and to encourage them to adopt responsible business practices to address adverse impacts on women's rights.
10. Develop and implement an ambitious intergovernmental plan to promote employment formalisation that integrates measures to raise companies' awareness of the costs of informality and encourage business associations and companies of a certain size to verify that their supply chains and business relationships do not have adverse impacts on labour rights related to informality.

Environment

11. Ensure that the environmental policy and legal framework is implemented efficiently so as to avoid adverse impacts related to business activities on environmental rights and support businesses in adopting responsible environmental practices focused on due diligence, by integrating references to OECD RBC instruments into relevant legislation and policies.
12. Ensure that the Ministry for the Environment, Water and the Ecological Transition (*Ministerio del Ambiente, Agua y Transición Ecológica*, MAATE) has sufficient resources to exercise its functions in the long term, since this is essential to efficiently preventing and mitigating adverse impacts related to business activities on environmental rights.
13. Encourage the effective and prompt management by the courts of cases involving allegations of environmental harm, ensure that the Social and Environmental Remediation Programme (*Programa de Reparación Ambiental y Social*, PRAS) has sufficient resources, and raise awareness among businesses about the importance of providing for or cooperating in remediation and including remediation as part of their environmental risk management processes.
14. Consider the possibility of requiring companies that operate in sectors where risks of adverse impacts on the environment are high, such as the extractive sector, to design and conduct due diligence processes in order to embed environmental considerations into their risk management practices and promote their contribution to broader environmental objectives, such as the protection of human and nature rights defenders or the fight against climate change and biodiversity loss.
15. Inform business associations and individual companies about the certifications and incentives that exist to reward companies that take climate change mitigation measures, and encourage companies to include climate change mitigation as part of their environmental risk management processes across their supply chains.

Anti-corruption

16. Ensure that the private sector is actively involved and can effectively participate in the implementation of the National Anti-Corruption Strategy, taking specific measures to promote and verify the development, adoption and implementation by companies of adequate internal controls, ethics and compliance programmes, or measures to prevent and detect corruption through risk-based due diligence.
17. Establish a robust interinstitutional framework allowing – for example, through the National Anti-Corruption Commission – to coordinate and build synergies between the various competent government entities, and involve the private sector to ensure its effective participation in the implementation of the National Anti-Corruption Strategy.
18. Reinforce efforts to encourage companies to prevent corruption, developing initiatives to support them to adopt the different minimum requirements that must include their integrity systems,

standards, compliance, prevention, management and/or oversight programmes and/or policies, in accordance with the provisions of the COIP, through awareness-raising and capacity-building programmes on the OECD RBC instruments, and particularly the Due Diligence Guidance for RBC.

19. Take additional measures to encourage companies to detect corruption, developing a framework that promotes the creation of easily accessible channels for reporting corruption acts in the private sector, and guarantees that company employees who report, in good faith and on reasonable grounds, suspected corruption acts by other employees of the company, other companies or subcontractors, can benefit from comprehensive protection against all forms of reprisals.

Leverage and incentivise RBC

Public procurement

20. Evaluate the effects of the recent reform of the public procurement legal and regulatory framework and continue to ensure that it promotes the integration of considerations relevant to RBC, equipping public buyers with sufficient resources to effectively implement it.
21. Strengthen the policy framework on public procurement to promote the integration of RBC and risk-based due diligence and consider developing additional policies, strategies, and implementation support in this regard.
22. Build on existing efforts to implement strategic public procurement in order to enhance the integration of RBC and risk-based due diligence in public procurement, in particular through Ecuador's e-procurement system and capacity-building initiatives.

State-Owned Enterprises

23. Develop an overarching framework to promote the integration of a structured and coherent RBC approach among Ecuador's main SOEs, underlining the importance of risk-based due diligence and providing detailed guidance for carrying it out.
24. Develop awareness-raising and training programmes to raise the awareness of the officials of its main SOEs and of the EMCO EP about the importance of observing RBC principles and standards, and teach them how to conduct due diligence.

Trade and investment

25. Use trade promotion policies to raise awareness among Ecuadorian exporters about how adopting responsible business practices can facilitate their access to foreign markets, but also to encourage their observance of RBC principles and standards, for instance, by linking the services of Pro Ecuador to the observance of these principles and standards.
26. Leverage policies and initiatives currently under development with a view to promoting and attracting investment in order to start using investment promotion and facilitation as a means to promote RBC, using the support provided to investors to raise their awareness of the importance of RBC, and to encourage them to observe the principles and standards in the field and, in particular, to conduct due diligence in the context of their investment projects.
27. Develop a specific plan regarding the inclusion of considerations relevant to RBC in trade policy and, particularly, in trade agreements, taking advantage of future negotiations or re-negotiations to seek to consistently include sustainability provisions and RBC clauses in such agreements.
28. Place RBC at the centre of efforts to attract foreign investment, developing and disseminating a long-term agreed strategy on the inclusion of sustainability provisions and RBC clauses in investment treaties, with the effective participation of businesses and other stakeholders.

Annex A. Consultations with government entities, business associations and stakeholders

During the preparation of the present RBC Policy Review of Ecuador, the OECD held meetings with and/or consulted representatives of the following government entities, business associations and stakeholders.

GOVERNMENT OF ECUADOR
Attorney-General's Office (<i>Fiscalía General del Estado</i> , FGE)
Consortium of Provincial Autonomous Governments of Ecuador (<i>Consortio de Gobiernos Autónomos Provinciales del Ecuador</i> , CONGOPE)
Ecuador Public Hydrocarbons Corporation (<i>Empresa Pública de Hidrocarburos del Ecuador</i> , Petroecuador EP)
Ecuadorian Association of Municipalities (<i>Asociación de Municipalidades del Ecuador</i> , AME)
Ecuadorian Institute of Social Security Bank (<i>Banco del Instituto Ecuatoriano de Seguridad Social</i> , BIESS)
Human Rights Secretariat (<i>Secretaría de Derechos Humanos</i> , SDH)
Internal Revenue Service (<i>Servicio de Rentas Internas</i> , SRI)
Judicial Council (<i>Consejo de la Judicatura</i> , CJ)
Ministry for Energy and Mines (<i>Ministerio de Energía y Minas</i> , MEM) (formerly the Ministry for Energy and Natural Non-Renewable Resources (<i>Ministerio de Energía y Recursos Naturales No Renovables</i>))
Ministry for Production, Foreign Trade, Investments and Fisheries (<i>Ministerio de Producción, Comercio Exterior, Inversiones y Pesca</i> , MPCEIP)
Ministry for Social and Economic Inclusion (<i>Ministerio de Inclusión Económica y Social</i> , MIES)
Ministry for the Economy and Finance (<i>Ministerio de Economía y Finanzas</i> , MEF)
Ministry for the Environment, Water and the Ecological Transition (<i>Ministerio del Ambiente, Agua y Transición Ecológica</i> , MAATE)
Ministry of Agriculture and Livestock (<i>Ministerio de Agricultura y Ganadería</i> , MAG)
Ministry of Foreign Affairs and Human Mobility (<i>Ministerio de Relaciones Exteriores y Movilidad Humana</i> , MREMH)
Ministry of Labour (<i>Ministerio del Trabajo</i> , MDT)
Ministry of Tourism (<i>Ministerio de Turismo</i> , MINTUR)
Ministry of Transport and Public Works (<i>Ministerio de Transporte y Obras Públicas</i> , MTOP)
National Council for Disability Equality (<i>Consejo Nacional para la Igualdad de Discapacidades</i> , CONADIS)
National Council for Equality in Human Mobility (<i>Consejo Nacional para la Igualdad de Movilidad Humana</i> , CNIMH)
National Council for Gender Equality (<i>Consejo Nacional para la Igualdad de Género</i> , CNIG)
National Council for Intergenerational Equality (<i>Consejo Nacional para la Igualdad Intergeneracional</i> , CNII)
National Council for the Equality of Peoples and Nationalities (<i>Consejo Nacional para la Igualdad de Pueblos y Nacionalidades</i> , CNIPN)
National Planning Secretariat (<i>Secretaría Nacional de Planificación</i> , SNP)

National Public Procurement Service (*Servicio Nacional de Contratación Pública*, SERCOP)

Office of the Ombudsman (*Defensoría del Pueblo del Ecuador*, DPE)

Office of the Prosecutor General (*Procuraduría General del Estado*, PGE)

Secretariat for Higher Education, Science and Technology (*Secretaría de Educación Superior, Ciencia y Tecnología*, SENESCYT)

State-Owned Enterprises Coordinating Company (*Empresa Coordinadora de Empresas Públicas*, EMCO EP)

BUSINESS ASSOCIATIONS

Business Council for Sustainable Development of Ecuador (Consejo Empresarial para el Desarrollo Sostenible del Ecuador, CEMDES)

Ecuadorian Chamber of Innovation and Technology (Cámara de Innovación y Tecnología Ecuatoriana, CITEC)

Ecuadorian Textile Industries Association (Asociación de Industrias Textiles del Ecuador, AITE)

Guayaquil Chamber of Industries (Cámara Industrial de Guayaquil)

International Chamber of Commerce – Ecuador (ICC Ecuador)

National Association of Food and Beverage Manufacturers (Asociación Nacional de Fabricantes de Alimentos y Bebidas, ANFAB)

National Chamber of Footwear (Cámara Nacional de Calzado, CALTU)

National Chamber of Small and Medium-Sized Enterprises (Cámara Nacional Pequeñas y Medianas Empresas, CANAPE)

Quito Chamber of Commerce (Cámara de Comercio de Quito – CCQ)

TRADE UNIONS

Central-Eastern Regional Federation Of Trade Union Organisations (Federación Regional Centro Oriente De Organizaciones Sindicales, FRECOOS)

Chamber of Commerce of Esmeraldas (CCE)

Federation of Free Workers of Pichincha (Federación de trabajadores libres de Pichincha, FELTRAPI)

General Union of Ecuadorian Workers (Unión General de Trabajadores del Ecuador, UGTE)

Independent Union Federation of Ecuadorian Workers (Federación Sindical Independiente de Trabajadores del Ecuador, FESITRAE)

National Confederation of Ecuadorian Public Servants (Confederación Nacional de Servidores Públicos del Ecuador, CONASEP)

Union of Agricultural Workers and Farmers (Asociación Sindical de Trabajadores Agrícolas y Campesinos, ASTAC)

CIVIL SOCIETY ORGANISATIONS

Defence and Ecological Conservation of Intag (Defensa y Conservación Ecológica de Intag, DECOIN)

Ecuadorian Mining Foundation (Fundación Minera del Ecuador)

Ecuadorian Movement for Social and Solidarity-based Economy (Movimiento de Economía Social y Solidaria del Ecuador, MESSE)

Ecuadorian Red Cross

INDIGENOUS PEOPLES' ORGANISATIONS

Afro-Ecuadorian Social, Ethno-Educational and Cultural Development Foundation (Fundación de Desarrollo Social, Etnoeducativa y Cultural Afroecuatoriana, AZÚCAR)

Annex B. Methodology and sample of the OECD 2020 Business Survey on Responsible Business Conduct in Latin America and the Caribbean

The OECD conducted the 2020 Business Survey on RBC in LAC between November 2020 and January 2021 in the framework of the RBC LAC Project.

The objective of the Survey was to obtain information on RBC-related practices and challenges for businesses operating in or from LAC countries, particularly the nine countries covered by the RBC LAC Project: Argentina, Brazil, Chile, Colombia, Costa Rica, Ecuador, Mexico, Panama and Peru.

The Survey included 31 questions, divided into five sections: general information; RBC policies and communications; risk-based due diligence; impact of the COVID-19 crisis; and future needs. It was developed on the basis of previous surveys run by the OECD Centre for RBC and in cooperation with the LAC NCPs. It was disseminated online in English, Spanish and Portuguese.

In total, 501 companies responded to the Survey, covering business practices in the nine countries and the four target sectors of the RBC LAC Project (extractives/minerals, agriculture, garment and financial sectors). Responses were received from companies of different sizes, including large enterprises, medium-sized enterprises, small enterprises and micro-enterprises, and of different types, i.e. private enterprises, publicly listed companies and stated-owned enterprises.

The Survey's findings provide a basis for supporting businesses and governments in the development and implementation of RBC policies and practices, which can contribute to greater resilience and sustainable development in LAC and beyond.

However, these findings have limitations in terms of representativeness, mostly due to the variation and the number of responses, the geographic distribution of the supply chain actors, and their share of national and regional production across different economic sectors. Moreover, the Survey's data are based on self-reporting by the companies themselves, which is a factor to be taken into account when interpreting its findings.

References

- (n.a.) (2020), *Ecuador-Chile Free Trade Agreement*, <https://www.produccion.gob.ec/acuerdo-comercial-chile-ecuador/>. [387]
- (n.a.) (2019), *Colombia-Ecuador-Peru-UK Free Trade Agreement*, <https://www.produccion.gob.ec/wp-content/uploads/2019/06/Acuerdo-Comercial-UK-Andinos-PDF.pdf>. [388]
- (n.a.) (2019), *Ecuador-Brazil Co-operation and Facilitation Investment Agreement*, <http://siscomex.gov.br/wp-content/uploads/2020/12/ACFI-Brasil-e-Ecuador.pdf>. [386]
- (n.a.) (2018), *Ecuador-Chile Partial Scope Agreement*, https://www.produccion.gob.ec/wp-content/uploads/2019/05/ACE65_Acuerdo.pdf. [393]
- (n.a.) (2018), *Ecuador-EFTA Free Trade Agreement*, https://drive.google.com/file/d/1MVffT2kH5Ere3cvv4EG9T_BjIXI6Kmmo/view. [389]
- (n.a.) (2017), *Ecuador-El Salvador Partial Scope Agreement*, <https://www.produccion.gob.ec/acuerdo-de-alcance-parcial-de-complementacion-economica-ecuador-con-el-salvador/>. [390]
- (n.a.) (2016), *Ecuador-Nicaragua Partial Scope Agreement*, <https://www.produccion.gob.ec/wp-content/uploads/2019/05/Acuerdo-de-Alcance-Parcial-entre-Ecuador-y-Nicaragua.pdf>. [391]
- (n.a.) (2012), *EU-Colombia-Peru-Ecuador Free Trade Agreement*, https://drive.google.com/file/d/1BCjMqWMkDh0xM9csqeW_pSyZAuFbMDQG/view. [392]
- (n.a.) (2004), *Ecuador-Guatemala Partial Scope Agreement*, <https://www.produccion.gob.ec/wp-content/uploads/2020/08/Acuerdo-de-Alcance-Parcial-Complemenacion-Economic.pdf>. [394]
- (n.a.) (2004), *MERCOSUR-Colombia-Ecuador-Venezuela Economic Complementation Agreement*, <https://www.produccion.gob.ec/wp-content/uploads/2019/05/01-TEXTO-ACE-59-MCS-CAN-.pdf>. [395]
- (n.a.) (1987), *Ecuador-Mexico Partial Scope Agreement*, <https://www.produccion.gob.ec/wp-content/uploads/2019/05/29-mxico.pdf>. [396]
- (n.a.) (1969), *Cartagena Agreement*, <https://www.produccion.gob.ec/wp-content/uploads/2019/05/Acuerdo-de-Cartagena.pdf>. [397]
- Agence Française de Développement (2022), *Press release: Bioeconomy: Protecting Biodiversity for an “Economy for Life”*, <https://www.afd.fr/en/actualites/bioeconomy-protecting-biodiversity-economy-life>. [201]

- Alianza por los Derechos Humanos Ecuador (2021), *Press release: Segunda instancia: Jueces de Orellana dejan en la impunidad la vulneración de derechos a 27,000 Kichwas afectados por derrame de petróleo y criminalizan a defensores y accionantes*, [215]
https://ddhhecuador.org/sites/default/files/documentos/2021-03/BOLETI%CC%81N%20DE%20PRENSA%20SENTENCIA%20APELACIO%CC%81N%20_240321.pdf.
- Alianza por los Derechos Humanos Ecuador (2021), *Situación de Personas Defensoras de derechos humanos, colectivos y de la Naturaleza en Ecuador*, [109]
<https://www.biodiversidadla.org/Recomendamos/Documentan-agresiones-contra-defensores-indigenas-por-autoridades>.
- Amazon Watch (2021), *Press release: Defensores de derechos humanos y derechos a la tierra amenazados en Ecuador*, [108]
<https://amazonwatch.org/es/news/2021/0701-human-rights-and-land-rights-defenders-under-threat-in-ecuador>.
- Amnesty International (2020), *Press release: Ecuador: COVID-19 threatens indigenous peoples' lives*, [448]
<https://www.amnesty.org/en/documents/amr28/2943/2020/en/>.
- Amnesty International (2020), *Press release: Indigenous women demand more protection in decades-long fight for Amazon homelands*, [112]
<https://www.amnesty.org/en/latest/impact/2020/08/indigenous-women-demand-more-protection-in-decades-long-fight-for-amazon-homelands/>.
- Amnesty International (2019), *Press release: "They will not stop us" - Ecuador: Justice and protection for Amazonian Women, defenders of the land, territory and environment*, [111]
<https://www.amnesty.org/download/Documents/AMR2800392019ENGLISH.PDF>.
- Amnesty International (2019), *Press release: Ecuador: Faced with a lack of state protection, Amazonian Women are risking their lives to defend the environment*, [183]
<https://www.amnesty.org/en/latest/press-release/2019/04/ecuador-mujeres-amazonicas-arriesgan-vida-para-defender-ambiente/>.
- Anderson, E. (2019), *Energy development reveals blind spots for ecosystem conservation in the Amazon Basin*, [184]
<https://doi.org/10.1002/fee.2114>.
- AS/COA/Control Risks (2021), *The Capacity to Combat Corruption Index*, [252]
https://www.as-coa.org/sites/default/files/CCC_Report_2021.pdf.
- AS/COA/Control Risks (2020), *The Capacity to Combat Corruption Index*, [249]
https://www.controlrisks.com/-/media/corporate/files/campaigns/ccc/ccc_report_2020.pdf?la=en&hash=3B74CB1E0BB4448DC6730EB580CEFB0A1BB10C2.
- Bilaterals.org (2020), *Ecuagoldmining v Ecuador : Mining, the environment, and international arbitration*, [228]
<https://www.bilaterals.org/?ecuagoldmining-v-ecuador-mining&lang=fr>.
- Borja, M., J. Aragón-Osejo and C. Josse (2017), *Bosques de la Región Amazónica Ecuatoriana: Qué nos dicen las cifras de deforestación de los últimos 15 años?*, [179]
https://issuu.com/fundacionecociencia/docs/2017_-_borja_arag_n-osejo_josse_/25.

- Business & Human Rights Resource Centre (2015), *First session of the Open-Ended Intergovt. Working Group, Concept note proposed under the responsibility of the designated Chair, Amb. María Fernanda Espinoza, Permanent Representative of Ecuador to the United Nations in Geneva*, <http://shorturl.at/DW126>. [40]
- Business Sweden (n.d.), *Website: General Conditions for Participation in Trade and Investment Activities*, <https://www.business-sweden.com/general-conditions-activities/>. [349]
- CAITISA (2017), *Informe Ejecutivo - Auditoría integral ciudadana de los tratados de protección recíproca de inversiones y del sistema de arbitraje en materia de inversiones en Ecuador*, <https://drive.google.com/file/d/14m0VnGIHNzuNVRVJRIOFDXqh9agGMC4x/view>. [357]
- CARE/Escuela Politécnica Nacional (n.d.), *El acoso y la violencia sexual en las empresas ecuatorianas - Informe de investigación*, <https://www.care.org.ec/wp-content/uploads/2020/11/INFORME-DE-INVESTIGACION-EPN-CARE.pdf>. [172]
- CBD (n.d.), *Website: Ecuador - Main Details. Biodiversity Facts*, <https://www.cbd.int/countries/profile/?country=ec#facts>. [178]
- CBD (n.d.), *Website: Latest NBSAPs*, <https://www.cbd.int/nbsap/about/latest/#ec>. [194]
- CELEC (n.d.), *Website: Direccionamiento Estratégico*, <https://www.celec.gob.ec/hidrotoapi/index.php/quienes-somos/direccionamiento-estrategico>. [319]
- CELEC EP (2020), *Código de Ética y Conducta*, <https://www.celec.gob.ec/images/Formularios/Codigo%20de%20Etica%20CELEC%20EP%202020.pdf>. [320]
- Center for Economic and Social Rights (1994), *Rights Violations in the Ecuadorian Amazon: The Human Consequences of Oil Development*, <https://www.cesr.org/rights-violations-ecuadorian-amazon-human-consequences-oil-development/>. [219]
- CERES (2021), *Press release: 21 empresas en Ecuador obtuvieron Distintivo ESR® -Empresa Socialmente Responsable*, <https://www.redceres.com/post/esr-21empresas-ecuador>. [53]
- CERES (2021), *Website: ESR - Ecuador*, <https://www.esr-ecuador.org/>. [375]
- CERES (2019), *Website: ¿Quiénes somos?*, <https://www.redceres.com/nosotros>. [50]
- CESCR (2019), *Concluding observations on the fourth periodic report of Ecuador*, <https://uhri.ohchr.org/en/document/38ae37b1-7ea0-4c10-b9cf-612d23256333>. [97]
- CIDH (2020), *Press release: CIDH Presenta observaciones de su visita a Ecuador*, <https://www.oas.org/es/cidh/prensa/Comunicados/2020/008.asp>. [402]
- Cleary Gottlieb (2021), *Ecuador re-ratifies the ICSID Convention: Impact of the ratification in Ecuador and in the Region*, <https://www.clearygottlieb.com/-/media/files/alert-memos-2021/ecuador-re-ratifies-the-icsid-convention.pdf>. [362]
- CNEL EP (2013), *Plan 02 - Responsabilidad Social Corporativa (copy provided by the Government of Ecuador)*. [376]
- CNEL EP (n.d.), *Memorias de Sostenibilidad*, <https://www.cnelep.gob.ec/memoria-de-sostenibilidad/>. [311]

- CNT EP (2019), *Website: Sistema de Gestión de Sostenibilidad y Responsabilidad Social*, [324]
<https://institucional.cnt.com.ec/sist-gestion-de-sost-y-resp-social>.
- CNT EP (2018), *Website: Sistema de Gestión Antisoborno*, [325]
<https://institucional.cnt.com.ec/sistema-de-gestion-antisoborno>.
- CNT EP (n.d.), *Website: Sistema de Gestion*, [426]
<https://institucional.cnt.com.ec/sistema-de-gestion>.
- CNT EP (n.d.), *Website: Sistema de Gestión Ambiental*, [323]
<https://institucional.cnt.com.ec/sistema-de-gestion-ambiental>.
- Consejo de la Judicatura (2022), *Press release: Pleno del Consejo de la Judicatura presentó informe de la gestión realizada en 2021*, [81]
<https://www.funcionjudicial.gob.ec/es/saladeprensa/noticias/item/10615-pleno-del-consejo-de-la-judicatura-present%C3%B3-informe-de-la-gesti%C3%B3n-realizada-en-2021>.
- Consejo de Participación Ciudadana y Control Social (2020), *Press release: CPCCS insta a la Asamblea Nacional a ratificar ley de defensa de trabajadores autónomos y comerciantes minoristas*, [177]
<https://www.cpccs.gob.ec/2020/11/cpccs-insta-asamblea-ley-defensa-trabajadores-autonomos-comerciantes/>.
- Corporación Latinobarómetro (2021), *Informe Latinobarómetro 2021 - Adiós a Macondo*, [256]
<https://www.latinobarometro.org/lat.jsp>.
- Corporación Latinobarómetro (2018), *Informe Latinobarómetro*, [257]
<https://www.latinobarometro.org/latContents.jsp>.
- Defensoría del Pueblo (2021), *Defensoría del Pueblo presenta acción de inconstitucionalidad en contra de la Ley Orgánica de Apoyo Humanitario*, [124]
<https://www.dpe.gob.ec/defensoria-del-pueblo-presenta-accion-de-inconstitucionalidad-en-contra-de-la-ley-organica-de-apoyo-humanitario/>.
- Defensoría del Pueblo (2021), *Intentos de criminalización a defensoras y defensores de los derechos humanos de las personas afectadas por las actuaciones de la empresa Furukawa Plantaciones C.A. en Ecuador*, [110]
<https://www.dpe.gob.ec/intentos-de-criminalizacion-a-defensoras-y-defensores-de-los-derechos-humanos-de-las-personas-afectadas-por-las-actuaciones-de-la-empresa-furukawa-plantaciones-c-a-en-ecuador/>.
- Defensoría del Pueblo (2021), *Resolución Nro. 050-DPE-CGAJ-2021 que conforma el Comité Ejecutivo de Empresas y Derechos Humanos*, [73]
<http://www.edicioneslegales-informacionadicional.com/webmaster/directorio/RO598.pdf>.
- Defensoría del Pueblo (2021), *Se llevó a cabo el primer taller con la sociedad civil para la elaboración del “plan de acción nacional sobre empresas y derechos humanos en Ecuador”*, [74]
<https://www.dpe.gob.ec/se-llevo-a-cabo-el-primer-taller-con-la-sociedad-civil-para-la-elaboracion-del-plan-de-accion-nacional-sobre-empresas-y-derechos-humanos-en-ecuador/>.
- Defensoría del Pueblo (2021), *Website: ¿Qué hacemos?*, [83]
<https://www.dpe.gob.ec/que-hacemos/>.
- Defensoría del Pueblo (2020), *Plan Estratégico Institucional 2020-2024*, [85]
<https://www.dpe.gob.ec/wp-content/dpecomunicacion/public/plan-estrategico-institucional-2020-2024.pdf>.

- Defensoría del Pueblo (2019), *Informe Final Caso Furukawa*, https://0a587ffb-6a63-4d42-a002-f9b201689e9e.filesusr.com/ugd/b3409b_38e2120bd06e4f6ba0d18b861239dc74.pdf?index=true. [87]
- Defensoría del Pueblo (n.d.), *Denuncias sobre violación de Derechos Humanos y de la Naturaleza*, <https://www.gob.ec/dpe/tramites/denuncias-violacion-derechos-humanos-naturaleza#>. [84]
- Defensoría del Pueblo (2021), *Defensoría del Pueblo y Comunidad de San Pablo de Amalí solicitaron a Corte Constitucional protección a sus derechos humanos y de la naturaleza*, <https://www.dpe.gob.ec/defensoria-del-pueblo-y-comunidad-de-san-pablo-de-amali-solicitaron-a-corte-constitucional-proteccion-a-sus-derechos-humanos-y-de-la-naturaleza/>. [209]
- Dolzer, R. (2005), *The Impact of International Investment Treaties on Domestic Administrative Law*, New York University Journal of International Law and Policy, Vol. 37, No. 4, <https://www.iilj.org/wp-content/uploads/2016/08/Dolzer-The-Impact-of-International-Investment-Treaties-on-Domestic-Administrative-Law-2005.pdf>. [450]
- Durango, J. (2019), *Environmental impacts of oil activities in the Northeastern Ecuadorian Amazon*, <https://tel.archives-ouvertes.fr/tel-02080465/document>. [220]
- Dutch Public Procurement Expertise Centre (2015), *Plan van aanpak maatschappelijk verantwoord inkopen overheden (2015-2020)*, <https://www.pianoo.nl/sites/default/files/documents/documents/plan-van-aanpak-maatschappelijk-verantwoord-inkopen-2015-2020-september2015.pdf>. [379]
- Dutch Public Procurement Expertise Centre (2012), *Legal framework procurement in The Netherlands*, <https://www.pianoo.nl/en/legal-framework-procurement-netherlands>. [378]
- ECLAC (2021), *Economic Survey of Latin America and the Caribbean - Ecuador*, https://repositorio.cepal.org/bitstream/handle/11362/47193/48/EI2021_Ecuador_en.pdf. [19]
- ECLAC (2021), *Foreign Direct Investment in Latin America and the Caribbean 2021*, <https://www.cepal.org/es/publicaciones/47147-la-inversion-extranjera-directa-america-latina-caribe-2021>. [29]
- Ecuador 2030 (n.d.), *Website: Ecuador 2030*, <http://www.ecuador2030.org/>. [56]
- Ecuador's Constitutional Court (2022), *Decision of 27 January 2022 in Case No. 273-19-JP*, <https://www.funcionjudicial.gob.ec/www/pdf/sentencia%20273-19-JP22.pdf>. [106]
- Ecuador's Constitutional Court (2021), *Decision of 1 December 2021 in Case No. 23-20-CN*, http://esacc.corteconstitucional.gob.ec/storage/api/v1/10_DWL_FL/e2NhcNBlDGE6J3RyYW1pdGUUnLCB1dWlkOicwY2VkZDc0MS1INTAYLTRIYWEtOTJINS1jM2U2MTYwYTA0NjAucGRmJ30=. [122]
- Ecuador's Constitutional Court (2021), *Decision of 15 October 2021 in Case No. 23571-2019-01605*, http://esacc.corteconstitucional.gob.ec/storage/api/v1/10_DWL_FL/e2NhcNBlDGE6J2VzY3JpdG8nLCB1dWlkOidkMDIwNzlhZi1kYzA3LTRjNjQtYTA2Ny1jOTMzNjZmYTE1NjJucGRmJ30=. [377]

- Ecuador's Constitutional Court (2021), *Decision of 19 April 2021 in Case No. 23571-2019-01605*, [86]
<https://www.trabajo.gob.ec/wp-content/uploads/2021/05/Sentencia-caso-Furukawa-Juicio-23571-2019-01605.pdf?x42051>.
- Ecuador's Constitutional Court (2021), *Decision of 29 September 2021 in case No. 18-21-CN/21*, [123]
http://esacc.corteconstitucional.gob.ec/storage/api/v1/10_DWL_FL/e2NhcNBlDGE6J3RyYW1pdGUnLCB1dWlkOic3NzAwN2RmMi1INzk4LTRkOGYtYTlhNS05Njg5ZTRiNzRmZDEucGRmJ30=.
- Ecuador's Constitutional Court (2021), *Declaration regarding Case No. 1489-21-EP, Constitutional Action for Protection*, [212]
http://esacc.corteconstitucional.gob.ec/storage/api/v1/10_DWL_FL/e2NhcNBlDGE6J3RyYW1pdGUnLCB1dWlkOidmODRINzQyZC00Yzc2LTQwZWYtYjU5Ni1jMmQ0ZmZhOGRmOWUucGRmJ30=.
- Ecuador's Constitutional Court (2020), *Decision of 29 July 2020 in Case No. 3-19-CN/20*, [80]
http://esacc.corteconstitucional.gob.ec/storage/api/v1/10_DWL_FL/e2NhcNBlDGE6J3RyYW1pdGUnLCB1dWlkOiczOGJiNmFhZC1INmNmLTRmMDItOTQyZi1kMjc1YzMwM2U1NTUucGRmJ30=.
- Ecuador's Constitutional Court (2019), *File of Case No. 1180-19-EP*, [211]
<https://portal.corteconstitucional.gob.ec/FichaCausa.aspx?numcausa=1180-19-EP>.
- El Comercio (2021), *Press release: Con una marcha en El Coca se recordó el derrame de petróleo ocurrido en abril del 2020 en la Amazonía*, [213]
<https://www.elcomercio.com/actualidad/ecuador/marcha-coca-derrame-petroleo-amazonia.html>.
- El Comercio (2020), *Press release: Ley Humanitaria acumula 23 demandas de inconstitucionalidad; se realiza audiencia*, [380]
<https://www.elcomercio.com/actualidad/politica/audiencia-demandas-inconstitucionalidad-ley-humanitaria.html>.
- El Comercio (2018), *Press release: Juez de Cuenca ordenó la suspensión de la explotación minera en Río Blanco*, [229]
<https://www.elcomercio.com/actualidad/juez-cuenca-suspension-mineria-rioblanco.html>.
- El Comercio (2017), *Press release: Lenín Moreno se compromete a una apertura con el sector productivo*, [24]
<https://www.elcomercio.com/actualidad/politica/leninmoreno-compromiso-sectorproductivo-ecuador-apertura.html>.
- El Universo (2021), *Press release: Histórica sentencia para apagar mecheros de Amazonía ya fue notificada; demandantes analizan próximos pasos*, [224]
<https://www.eluniverso.com/noticias/economia/sentencia-escrita-para-apagar-mecheros-establece-eliminar-varios-en-18-meses-nota/>.
- El Universo (2020), *Press release: Comisión Internacional Anticorrupción demanda al gobierno de Lenin Moreno acciones para continuar su trabajo en el país*, [381]
<https://www.eluniverso.com/noticias/2020/08/18/nota/7946911/corrupcion-ecuador-ceicce-lenin-moreno-expertos-internacionales-onu/>.

- El Universo (2015), *Press release: Se instala nueva Comisión Anticorrupción con apoyo de movimientos sociales*, <https://www.eluniverso.com/noticias/2015/07/23/nota/5034295/se-instala-nueva-comision-anticorrupcion-12-miembros/>. [58]
- EMCO EP (2021), *Resolución Nro. EMCOEP 2021-15 que aprueba los Principios de Buen Gobierno Corporativo y Código de Ética en las Empresas Públicas Constituidas por la Función Ejecutiva*, (copy provided by the Government of Ecuador). [326]
- EMCO EP (n.d.), *Política Antisoborno*, <https://www.emco.gob.ec/Emco2/2021/03/11/5737/>. [455]
- ENAMI EP (2020), *Resolution No. ENAMI-ENAMI-2020-0008-RLS*, <https://www.enamiep.gob.ec/wp-content/uploads/downloads/2020/04/ENAMI-ENAMI-2020-0003-RLS.pdf>. [317]
- ENAMI EP (2020), *Resolution No. ENAMI-ENAMI-2020-0038-RLS*, <https://www.enamiep.gob.ec/wp-content/uploads/downloads/2020/10/ENAMI-ENAMI-2020-0038-RLS.pdf>. [316]
- ENAMI EP (2017), *Resolution No. 104-ENAMI EP-2017*, <https://www.enamiep.gob.ec/wp-content/uploads/downloads/2018/08/RESOLUCION-104-ENAMI-EP-2017-REGLAMENTO-DE-SEGUIRDAD-Y-SALUD-OCUPACIONAL.pdf>. [318]
- European Commission (2022), *Press release: Commission lays down rules for companies to respect human rights and environment in global value chains*, https://ec.europa.eu/commission/presscorner/detail/en/ip_22_1145. [366]
- FAO (2015), *Global Forest Resources Assessment 2015*, <https://www.fao.org/3/i4808e/i4808e.pdf>. [382]
- FLOPEC (2021), *Política Antisoborno*, <https://www.flopec.com.ec/wp-content/uploads/downloads/2021/08/POLITICAANTISOBORNO.pdf>. [322]
- FLOPEC (2020), *Política Integral de Seguridad, Medioambiental, de Calidad, de Protección Marítima y Anti Soborno*, <https://www.flopec.com.ec/wp-content/uploads/2020/02/POLITICA-2020.pdf>. [321]
- Fundación Ciudadanía y Desarrollo (2021), *Civil Society Report on the Implementation of chapter II & Chapter V of the UNCAC*, <https://www.ciudadaniaydesarrollo.org/projects/civil-society-report-on-the-implementation-of-chapter-ii-chapter-v-of-the-cnucc/>. [273]
- GANHRI (2021), *Rights-Based Recovery in Latin America and the Caribbean: placing human rights and the 2030 Agenda at the core of the responses to build forward better*, <https://ganhri.org/wp-content/uploads/2021/04/Report-Evento-Paralelo-FRDS-FINAL-English.pdf>. [373]
- GANHRI (2020), *Press release: New GANHRI Chairperson vows to defend national human rights institutions*, <https://ganhri.org/new-ganhri-chairperson-vows-to-defend-national-human-rights-institutions/>. [451]
- GARN (2021), *The Ecuadorian Court eliminates gas flaring in oil industry*, <https://www.garn.org/gas-flaring-ecuador/#:~:text=This%20ruling%20in%20favor%20of,wells%20of%20the%20Ecuadorian%20Amazon.&text=Leonela%20Moncayo%2C%20one%20of%20the%20plaintiff%20girls%20against%20Ecuador%20gas%20flaringhttps://www.therightsofnature.org/g>. [222]

- GARN (2011), *The first successful case of the Rights of Nature implementation in Ecuador*, [195]
<https://www.garn.org/first-ron-case-ecuador>.
- Gaukrodger, D. (2017), "Addressing the balance of interests in investment treaties: The limitation of fair and equitable treatment provisions to the minimum standard of treatment under customary international law", *OECD Working Papers on International Investment*, Nro. 2017/03, OECD Publishing, Paris, <https://doi.org/10.1787/0a62034b-en>. [471]
- Gaukrodger, D. (2021), "Business responsibilities and investment treaties", *OECD Working Papers on International Investment*, No. 2021/02, OECD Publishing, Paris, <https://doi.org/10.1787/4a6f4f17-en>. [350]
- Gaukrodger, D. (2021), "The future of investment treaties - possible directions", *OECD Working Papers on International Investment*, No. 2021/03, OECD Publishing, Paris, <https://doi.org/10.1787/946c3970-en>. [364]
- Gaukrodger, D. (2020), *Business responsibilities and investment treaties - Consultation paper by the OECD Secretariat*, <https://www.oecd.org/daf/inv/investment-policy/Consultation-Paper-on-business-responsibilities-and-investment-treaties.pdf>. [351]
- GCF (2019), *Website: Projects & Programmes - FP110 Ecuador REDD-plus RBP for results period 2014*, <https://www.greenclimate.fund/project/fp110>. [427]
- Global Forest Watch (n.d.), *Ecuador*, [383]
<https://www.globalforestwatch.org/dashboards/country/ECU/?category=climate&dashboardPrompts=eyJzaG93UHJvbXB0cyI6dHJ1ZSwicHJvbXB0c1ZpZXdlZCI6WyJzaGFyZVdpZGldCjdlCjZzXZR0aW5ncyI6eyJzaG93UHJvbXB0cyI6dHJ1ZSwicHJvbXB0c1ZpZXdlZCI6W10sInNldHRpbmdzIjpw7Im9wZW4iOmZ>.
- Government of Australia (2019), *Commonwealth Procurement Rules*, [398]
https://www.finance.gov.au/sites/default/files/2019-11/CPRs-20-April-2019_1.pdf.
- Government of Dinamarca (2013), *Strategi for intelligent offentlig indkøb*, [399]
<https://www.regeringen.dk/aktuelt/tidligere-publikationer/strategi-for-intelligent-offentlig-indkoeb/>.
- Government of Ecuador (2088), *Decreto Ejecutivo Nro. 1511*, [442]
http://www.oas.org/juridico/pdfs/mesicic4_ecu_dec.pdf.
- Government of Ecuador (2022), *Agenda Nacional para la Igualdad Intergeneracional 2021-2025*, [152]
https://www.igualdad.gob.ec/wp-content/uploads/downloads/2022/05/ANII_Registro_oficial2SU60_2022.pdf.
- Government of Ecuador (2022), *Boletín de cifras - Comercio Exterior - Marzo 2022*, [18]
<https://www.produccion.gob.ec/wp-content/uploads/2022/03/VFBoletinComercioExteriormarzo2022.pdf>.
- Government of Ecuador (2022), *Decreto Ejecutivo Nro. 412*, <https://asobanca.org.ec/wp-content/uploads/2022/05/Decreto-Ejecutivo-Nro.-412-Creacion-Secretaria-Anticorrupcion.pdf>. [270]
- Government of Ecuador (2022), *Estrategia Nacional Anticorrupción*, [267]
https://www.presidencia.gob.ec/wp-content/uploads/2022/07/Estrategia-Nacional-Anticorrupcio%CC%81n-11-de-julio-2022_f.pdf.

- Government of Ecuador (2022), *Evolución de la Balanza Comercial por Países, Enero – Diciembre 2021*, Banco Central del Ecuador, [21]
<https://contenido.bce.fin.ec/documentos/Estadisticas/SectorExterno/BalanzaPagos/balanzaComercial/ebca202202.pdf>.
- Government of Ecuador (2022), *Evolución de la Balanza Comercial por Productos, Enero – Diciembre 2021*, Banco Central del Ecuador, [20]
<https://contenido.bce.fin.ec/documentos/Estadisticas/SectorExterno/BalanzaPagos/balanzaComercial/ebc202202.pdf>.
- Government of Ecuador (2022), *Ficha informativa de proyecto 2022 - Propuesta de política nacional de inversiones del Ecuador 2021-2024*, <https://www.produccion.gob.ec/wp-content/uploads/downloads/2022/06/Propuesta-de-Politica-Nacional-de-Inversiones-del-Ecuador-2021-2024.pdf>. [341]
- Government of Ecuador (2022), *Ficha informativa de proyecto 2022 - Sistema nacional de atracción y facilitación de inversiones*, <https://www.produccion.gob.ec/wp-content/uploads/downloads/2022/05/Sistema-nacional-de-atraccion-y-facilitacion-de-inversiones.pdf>. [342]
- Government of Ecuador (2022), *Informe voluntario de medio término sobre el cumplimiento de las recomendaciones efectuadas al país en el marco del III Ciclo del Examen Periódico Universal de Naciones Unidas*, https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session27/EC/Ecuador3rdCycle_SP.doc. [42]
- Government of Ecuador (2022), *Inversión Extranjera Directa, Reportada en la Balanza de Pagos - Boletín No 79*, Banco Central del Ecuador, [28]
<https://contenido.bce.fin.ec/documentos/Estadisticas/SectorExterno/BalanzaPagos/InversionExtranjera/Directa/indice.htm>.
- Government of Ecuador (2022), *Press release: Convenio 190 de la OIT entra en vigencia en Ecuador*, <https://www.trabajo.gob.ec/convenio-190-de-la-oit-entra-en-vigencia-en-ecuador/>. [165]
- Government of Ecuador (2022), *Proyecto de Ley Código Orgánico de Consulta Previa Libre e Informada, Ambiental y Legislativa*, [105]
<http://ppless.asambleanacional.gob.ec/alfresco/d/d/workspace/SpacesStore/17adb1b7-2465-4e52-ac3a-a13c00c66892/pp-consulta-previa-419723-Chimbo-otros.pdf>.
- Government of Ecuador (2022), *Reglamento General a la Ley Orgánica del Sistema Nacional de Contratación Pública*, https://portal.compraspublicas.gob.ec/sercop/wp-content/uploads/2022/08/Decreto_Ejecutivo_No._458_20220520094615-1.pdf. [296]
- Government of Ecuador (2021), *Acuerdo Ministerial MAATE-2021-047 que expide la Norma Técnica del Programa Ecuador Carbono Cero con Alcance Organizacional*, [407]
http://www.edicioneslegales-informacionadicional.com/webmaster/directorio/RO129_2022.pdf.
- Government of Ecuador (2021), *Acuerdo Ministerial Nro. MAAE-2021-018 que expide el Programa Ecuador Carbono Cero*, <https://www.ambiente.gob.ec/wp-content/uploads/downloads/2021/05/018-Carbono-0-signed.pdf>. [241]

- Government of Ecuador (2021), *Alineación del Plan Nacional de Desarrollo 2021-2025 con la Agenda 2030*, <https://www.planificacion.gob.ec/wp-content/uploads/2021/10/Matriz-de-alineaci%C3%B3n-PND-2021-2025-Agenda-2030-frv-signed.pdf>. [45]
- Government of Ecuador (2021), *Boletín estadístico anual: el mercado laboral en el Ecuador Nro. 2*, https://www.trabajo.gob.ec/wp-content/uploads/2022/04/BoletinAnual_Final.pdf?x42051. [170]
- Government of Ecuador (2021), *Decreto Ejecutivo Nro. 1221*, https://www.eppetroecuador.ec/wp-content/uploads/downloads/2021/01/Decreto_Ejecutivo_No._1221_20210007160628_2021007160632.pdf. [435]
- Government of Ecuador (2021), *Decreto Ejecutivo Nro. 1295*, http://esacc.corteconstitucional.gob.ec/storage/api/v1/10_DWL_FL/eyJjYXJwZXRhIjoicm8iLCJ1dWlkljoiYjQ0NGNiZWItNjc2MC00ODcwLTg0YzQtN2lyNDMwZTcxZTEwLnBkZiJ9. [441]
- Government of Ecuador (2021), *Decreto Ejecutivo Nro. 216*, <http://www.edicioneslegales-informacionadicional.com/webmaster/directorio/2S577.pdf>. [72]
- Government of Ecuador (2021), *Decreto Ejecutivo Nro. 4*, https://www.controlrecursosyenergia.gob.ec/wp-content/uploads/downloads/2021/07/Decreto_Ejecutivo_N._4-1.pdf. [443]
- Government of Ecuador (2021), *Decreto Ejecutivo Nro. 68 que declara política pública prioritaria la facilitación del comercio y de la producción, la simplificación de trámites y la agenda de competitividad*, https://www.fielweb.com/App_Themes/InformacionInteres/Decreto_Ejecutivo_No._68_20210509190231_20210509190248_20210509190258.pdf. [26]
- Government of Ecuador (2021), *Ecuador inició diálogo con el sector empresarial sobre el Plan de Acción Nacional sobre Empresas y Derechos Humanos*, <https://www.cancilleria.gob.ec/2021/04/07/ecuador-inicio-dialogo-con-el-sector-empresarial-sobre-el-plan-de-accion-nacional-sobre-empresas-y-derechos-humanos/>. [369]
- Government of Ecuador (2021), *El Consejo de la Judicatura enfrenta a la corrupción a través de la mesa interinstitucional*, <https://www.uafe.gob.ec/el-consejo-de-la-judicatura-enfrenta-a-la-corrupcion-a-traves-de-la-mesa-interinstitucional/>. [278]
- Government of Ecuador (2021), *Encuesta Nacional de Empleo, Desempleo y Subempleo*, https://www.ecuadorencifras.gob.ec/documentos/web-inec/EMPLEO/2021/Trimestre-octubre-diciembre-2021/2021_IV_Trimestre_Mercado_Laboral.pdf. [173]
- Government of Ecuador (2021), *Kit de inclusión de proyectos en el portafolio de inversiones*, <https://sites.google.com/view/inversiones-ec/esp%C3%B1ol/kit-de-inclusi%C3%B3n-de-proyectos-en-portafolio-de-inversiones>. [344]
- Government of Ecuador (2021), *Ley de Compañías*, https://www.gob.ec/sites/default/files/regulations/2020-03/Documento_LEY-COMPANIAS.pdf. [280]
- Government of Ecuador (2021), *Ley Orgánica de Creación de Oportunidades, Desarrollo Económico y Sostenibilidad Fiscal*, <https://www.comunicacion.gob.ec/wp-content/uploads/2021/09/Ley-de-Creacio%CC%81n-de-OPORTUNIDADES-1.pdf>. [146]

- Government of Ecuador (2021), *Ley Orgánica de Economía Circular Inclusiva*, [47]
<http://www.edicioneslegales-informacionadicional.com/webmaster/directorio/4S488.pdf>.
- Government of Ecuador (2021), *Ley Orgánica de la Defensoría Pública*, [449]
<https://biblioteca.defensoria.gob.ec/bitstream/37000/3381/1/Ley%20Org%C3%A1nica%20de%20la%20Defensor%C3%ADa%20P%C3%ABlica%20%2814-05-2021%29.pdf>.
- Government of Ecuador (2021), *Ley Orgánica Reformativa del Código Orgánico Integral Penal en Materia Anticorrupción*, [281]
<https://www.registroficial.gob.ec/index.php/registro-oficial-web/publicaciones/suplementos/item/14374-segundo-suplemento-al-registro-oficial-no-392>.
- Government of Ecuador (2021), *Lineamientos Generales de la Política Nacional Anticorrupción*, [266]
<https://www.presidencia.gob.ec/wp-content/uploads/2022/01/Lineamientos-de-la-Poli%CC%81tica-Nacional-Anticorrupcio%CC%81n-12.11.21-7.pdf>.
- Government of Ecuador (2021), *Ministerio de Inclusión Económica y Social: Disculpas públicas a extrabajadores de la empresa Furukawa*, [88]
<https://www.inclusion.gob.ec/disculpas-publicas-a-extrabajadores-de-la-empresa-furukawa/>.
- Government of Ecuador (2021), *Ministerio de Salud Pública - Disculpas Públicas*, [89]
<https://www.salud.gob.ec/disculpas-publicas-3/>.
- Government of Ecuador (2021), *Ministerio del Trabajo: Disculpas públicas en el Caso Furukawa*, [90]
<https://www.trabajo.gob.ec/disculpas-caso-furukawa/>.
- Government of Ecuador (2021), *Norma Técnica Organizacional del Programa Ecuador Carbono Cero*, [242]
<https://www.ambiente.gob.ec/wp-content/uploads/downloads/2021/07/Norma-Tecnica-Organizacional-del-PECC.pdf>.
- Government of Ecuador (2021), *Plan de acción para el sector minero*, [104]
<https://www.enamiep.gob.ec/wp-content/uploads/downloads/2021/09/ENERGET-PLAN-DE-ACCION-PARA-EL-SECTOR-MINERO.pdf>.
- Government of Ecuador (2021), *Plan de creación de oportunidades 2021-2025*, [46]
https://siteal.iiep.unesco.org/sites/default/files/sit_accion_files/plan_de_creacion_de_oportunidades.pdf.
- Government of Ecuador (2021), *Press release: Avances y retos regionales para la implementación del C190: una mirada desde el Estado, lxs empleadores y lxs trabajadores*, [384]
<https://www.igualdadgenero.gob.ec/eventoimplementacionc190/>.
- Government of Ecuador (2021), *Press release: Ecuador marca el inicio de la compensación por pérdida de biodiversidad*, [422]
<https://www.ambiente.gob.ec/ecuador-marca-el-inicio-de-la-compensacion-por-perdida-de-biodiversidad/>.
- Government of Ecuador (2021), *Press release: El Ministerio del Trabajo y la Defensoría Pública juntos por los derechos de los trabajadores*, [144]
<https://www.trabajo.gob.ec/el-ministerio-del-trabajo-y-la-defensoria-publica-juntos-por-los-derechos-de-los-trabajadores/>.
- Government of Ecuador (2021), *Press release: En Ecuador estamos juntos por la prevención y erradicación de la violencia contra la mujer en el ámbito laboral*, [162]
<https://www.trabajo.gob.ec/en-ecuador-estamos-juntos-por-la-prevencion-y-erradicacion-de-la-violencia-contra-la-mujer-en-el-ambito-laboral/>.

- Government of Ecuador (2021), *Press release: La plataforma interinstitucional para elaborar el Plan de Acción Nacional sobre Empresas y Derechos Humanos inició sus trabajos*, [49]
<https://www.cancilleria.gob.ec/2021/03/18/la-plataforma-interinstitucional-para-elaborar-el-plan-de-accion-nacional-sobre-empresas-y-derechos-humanos-inicio-sus-trabajos/>.
- Government of Ecuador (2021), *Press release: Ministerio del Trabajo socializó el Proyecto de Ley Economía Violeta a escala nacional*, [447]
<https://www.trabajo.gob.ec/ministerio-del-trabajo-socializo-el-proyecto-de-ley-economia-violeta-a-escala-nacional/>.
- Government of Ecuador (2021), *Press release: Ministerio del Trabajo traza la ruta de implementación del Convenio 190 de la OIT sobre violencia y acoso*, [164]
<https://www.trabajo.gob.ec/ministerio-del-trabajo-traza-la-ruta-de-implementacion-del-convenio-190-de-la-oit-sobre-violencia-y-acoso/>.
- Government of Ecuador (2021), *Press release: Programa Carbono Cero se pone en marcha en el Ecuador*, [240]
<https://www.ambiente.gob.ec/programa-carbono-cero-se-pone-en-marcha-en-el-ecuador/>.
- Government of Ecuador (2021), *Press release: Secretaría de Derechos Humanos - Misión/ Visión/ Valores*, [71]
<https://www.derechoshumanos.gob.ec/mision-vision-valores/>.
- Government of Ecuador (2021), *Press release: Sociedad civil dialoga acerca de Plan de Acción Nacional sobre Empresas y Derechos Humanos*, [457]
<https://www.cancilleria.gob.ec/2021/04/15/sociedad-civil-dialoga-acerca-de-plan-de-accion-nacional-sobre-empresas-y-derechos-humanos/>.
- Government of Ecuador (2021), *Press release: Sostenibilidad y crecimiento económico, Ecuador arrancó su transición ecológica*, [202]
<https://www.ambiente.gob.ec/sostenibilidad-y-crecimiento-economico-ecuador-arranco-su-transicion-ecologica/>.
- Government of Ecuador (2021), *Programa Ecuador Carbono*, [232]
<https://www.ambiente.gob.ec/wp-content/uploads/downloads/2021/04/Taller-Socializacio%CC%81n-Programa-Ecuador-Carbono-Cero.pdf>.
- Government of Ecuador (2021), *Proyecto de Ley Orgánica para Impulsar el Trabajo de la Mujer, Igualdad de Oportunidades y la Economía Violeta*, [166]
http://ppless.asambleanacional.gob.ec/alfresco/d/d/workspace/SpacesStore/a0b5ae13-982c-43f5-a1de-b15eca572341/pp-ley-violeta-lmoreno-13-04-2021-Memorando%20Nro.%20AN-PR-2021-0112-M_compressed.pdf.
- Government of Ecuador (2021), *Resolución Nro. 190-2021 del Pleno del Consejo de la Judicatura*, [269]
<https://funcionjudicial.gob.ec/www/pdf/resoluciones/2021/190-2021.pdf>.
- Government of Ecuador (2021), *Tweet: Iniciamos el camino hacia un país más competitivo y productivo. Juntos logramos una apertura real al comercio y con resultados concretos.*, [25]
<https://twitter.com/LassoGuillermo/status/1402802339786940418>.
- Government of Ecuador (2021), *Website: Empresas Públicas*, [306]
<https://www.emco.gob.ec/empresas-publicas-2/>.

- Government of Ecuador (2020), *Acuerdo Ministerial Nro. MDT-2020-132 que expide las Directrices para el Registro de las Modalidades y Acuerdos Laborales, establecidas en el Capítulo III de la Ley Orgánica de Apoyo Humanitario para Combatir la Crisis Sanitaria derivada del Covid-19*, <https://www.trabajo.gob.ec/wp-content/uploads/2020/07/Acuerdo-Ministerial-NRO-MDT-2020-132..pdf?x42051>. [125]
- Government of Ecuador (2020), *Acuerdo Ministerial Nro. MDT-2020-133 que expide las Directrices para la Aplicación de la Reducción Emergente de la Jornada de Trabajo, establecida en la Ley Orgánica de Apoyo Humanitario para Combatir la Crisis Sanitaria derivada del Covid-19*, <https://www.trabajo.gob.ec/wp-content/uploads/2020/07/Acuerdo-Ministerial-NRO-MDT-2020-133.pdf?x42051>. [126]
- Government of Ecuador (2020), *Acuerdo Ministerial Nro. MDT-2020-136 que expide las Directrices que Regulan el Contrato por Obra o Servicio Determinado dentro del Giro del Negocio*, <https://www.trabajo.gob.ec/wp-content/uploads/2018/01/AM-136-GIRO-DEL-NEGOCIO-v29.7-signed-ok.pdf?x42051>. [176]
- Government of Ecuador (2020), *Acuerdo Ministerial Nro. MDT-2020-244 que expide el Protocolo de Prevención y Atención de casos de Discriminación, Acoso Laboral y Toda Forma de Violencia en los Espacios de Trabajo*, <https://www.trabajo.gob.ec/wp-content/uploads/2020/11/2020-Acuerdo-Ministerial-Nro.-MDT-2020%E2%80%93244.pdf?x42051>. [128]
- Government of Ecuador (2020), *Cifras de la Contratación Pública*, <https://portal.compraspublicas.gob.ec/sercop/cifras-de-la-contratacion-publica-diciembre/>. [292]
- Government of Ecuador (2020), *Decreto Ejecutivo Nro. 1006*, <https://www.registroficial.gob.ec/index.php/registro-oficial-web/publicaciones/suplementos/item/12857-segundo-suplemento-al-registro-oficial-no-194>. [444]
- Government of Ecuador (2020), *Decreto Ejecutivo Nro. 1051*, <https://www.emco.gob.ec/Emco2/wp-content/uploads/2021/03/1Decreto-Presidencial-No.-1051-REORGANIZACION-EMCOEP.pdf>. [408]
- Government of Ecuador (2020), *Decreto Ejecutivo Nro. 1065*, https://www.presidencia.gob.ec/wp-content/uploads/2020/06/a2_Decreto_Ejecutivo_1065_mayo_2020.pdf. [203]
- Government of Ecuador (2020), *Decreto Ejecutivo Nro. 1114*, <https://impuestosecuador.com/wp-content/uploads/bsk-pdf-manager/2021/04/Reglamento-a-la-Ley-Organica-de-simplificacion-Pogresividad-Tributaria.pdf>. [331]
- Government of Ecuador (2020), *Investment Guide 2020-2021*, <https://finnpartnership.fi/wp-content/uploads/2021/05/Ecuadors-Investors-Guide.pdf>. [346]
- Government of Ecuador (2020), *Ley Orgánica de Apoyo Humanitario*, https://www.emov.gob.ec/sites/default/files/transparencia_2020/a2_41.pdf. [121]
- Government of Ecuador (2020), *Plan Nacional de Desarrollo del Sector Minero 2020-2030*, <https://www.recursosyenergia.gob.ec/wp-content/uploads/2020/10/Plan-Nacional-de-Desarrollo-del-Sector-Minero-2020-2030.pdf>. [185]

- Government of Ecuador (2020), *Press release: Ecuador comienza la elaboración de plan de acción sobre empresas y derechos humanos*, [48]
<https://www.cancilleria.gob.ec/2020/10/15/ecuador-comienza-la-elaboracion-de-plan-de-accion-sobre-empresas-y-derechos-humanos/>.
- Government of Ecuador (2020), *Press release: Ecuador se convierte en el noveno país en ratificar el Acuerdo de Escazú*, [113]
<https://www.ambiente.gob.ec/ecuador-se-convierte-en-el-noveno-pais-en-ratificar-el-acuerdo-de-escazu/#:~:text=El%20pasado%2021%20de%20mayo%20de%202020%2C%20Ecuador,prot ecci%C3%B3n%20de%20defensores%20de%20los%20derechos%20humanos%20ambientales.>
- Government of Ecuador (2020), *Press release: Ecuador, primer país del mundo en ratificar los 27 tratados de Naciones Unidas sobre derechos humanos*, [60]
<https://www.cancilleria.gob.ec/2020/12/08/ecuador-primer-pais-del-mundo-en-ratificar-los-27-tratados-de-naciones-unidas-sobre-derechos-humanos/>.
- Government of Ecuador (2020), *Press release: Fiscalía y Policía Nacional coordinan la conformación de fuerza de tarea que investigará casos de corrupción durante la emergencia*, [272]
<https://www.fiscalia.gob.ec/fiscalia-y-policia-nacional-coordinan-la-conformacion-de-fuerza-de-tarea-que-investigara-casos-de-corrupcion-durante-la-emergencia/>.
- Government of Ecuador (2020), *Press release: Nulidad del laudo de Chevron: La Procuraduría General del Estado inició el proceso de apelación de la sentencia*, [355]
<http://www.pge.gob.ec/index.php/2014-10-01-02-32-39/boletines2-2/item/1617-nulidad-del-laudo-de-chevron-la-procuraduria-general-del-estado-inicio-el-proceso-de-apelacion-de-la-sentencia.>
- Government of Ecuador (2020), “*Press release: Presidente Moreno pasa revista a agenda con OCDE en torno a cooperación técnica y estudios sobre desarrollo*”, [261]
<https://www.comunicacion.gob.ec/presidente-moreno-pasa-revista-a-agenda-con-ocde-en-torno-a-cooperacion-tecnica-y-estudios-sobre-desarrollo/>.
- Government of Ecuador (2020), *Press release: Se suscribió el Pacto Nacional por la Bioeconomía Sostenible para el Uso Eficiente de los Recursos Naturales*, [200]
<https://www.produccion.gob.ec/se-suscribio-el-pacto-nacional-por-la-bioeconomia-sostenible-para-el-uso-eficiente-de-los-recursos-naturales/#:~:text=En%20Quito%2C%20con%20la%20participaci%C3%B3n%20de%20autoridades%20del,utilizaci%C3%B3n%20y%20aprovechamient.>
- Government of Ecuador (2020), *Protocolo con pertinencia intercultural para la prevención y atención de la Covid-19 en pueblos y nacionalidades indígenas, afroecuatorianos y montubios del Ecuador*, [409]
http://www.pueblosynacionalidades.gob.ec/wp-content/uploads/2020/08/PROTOCOLO-PUEBLOS_Y_NACIONALIDADES_APROBADO_COE.pdf.
- Government of Ecuador (2020), *Protocolo de Prevención y Atención de casos de Discriminación, Acoso Laboral y Toda Forma de Violencia en los Espacios de Trabajo*, [456]
<https://www.igualdadgenero.gob.ec/wp-content/uploads/downloads/2021/06/Protocolo-de-Prevención-casos-de-violencia.pdf>.

- Government of Ecuador (2020), *Reglamento a la Ley Orgánica de Simplificación y Progresividad Tributaria*, <https://www.registroficial.gob.ec/index.php/registro-oficial-web/publicaciones/suplementos/item/13287-segundo-suplemento-al-registro-oficial-no-260>. [410]
- Government of Ecuador (2020), *Reglamento Ambiental de Operaciones Hidrocarburíferas en el Ecuador*, https://www.gob.ec/sites/default/files/regulations/2020-05/Documento_Reglamento-Ambiental-Operaciones-Hidrocarburi%CC%81feras-Ecuador.pdf. [197]
- Government of Ecuador (2020), *Resolución Ministerial Nro. MDT-2020-028*, <https://www.trabajo.gob.ec/wp-content/uploads/downloads/2020/08/Resolucion-MDT-2020-028.pdf>. [37]
- Government of Ecuador (2020), *Sistema Nacional de Áreas Protegidas*, https://www.ambiente.gob.ec/wp-content/uploads/downloads/2020/04/2020_03_30-BOLETIN-FINAL.pdf. [180]
- Government of Ecuador (2019), *Acuerdo Ministerial Nro. MDT-2019-157 - Reglamento del Centro de Mediación Laboral*, https://www.trabajo.gob.ec/wp-content/uploads/2020/02/REGLAMENTO-DE-CENTRO-DE-MEDIACI%C3%93N-LABORAL-DEL-MINISTERIO-DEL-TRABAJO-2019_compressed.pdf?x42051. [143]
- Government of Ecuador (2019), *Agenda para la igualdad de derechos de las nacionalidades y pueblos indígenas, pueblo afroecuatoriano y pueblo montubio 2019-2021*, <http://www.pueblosynacionalidades.gob.ec/wp-content/uploads/2020/02/Agenda-Nacional-para-la-Igualdad-de-Pueblos-y-Nacionalidades.pdf>. [94]
- Government of Ecuador (2019), *Anti-Bribery Policy*, https://www.finanzas.gob.ec/wp-content/uploads/downloads/2020/03/ANTI-BRIBERY-POLICY_05032020.pdf. [421]
- Government of Ecuador (2019), *Decreto Ejecutivo Nro. 481*, https://www.gob.ec/sites/default/files/regulations/2020-05/Documento_Ley-Organica-Defensoria-del-Pueblo.pdf. [69]
- Government of Ecuador (2019), *Decreto Ejecutivo Nro. 731*, <https://www.registroficial.gob.ec/index.php/registro-oficial-web/publicaciones/suplementos/item/11686-suplemento-al-registro-oficial-no-496>. [276]
- Government of Ecuador (2019), *Decreto Ejecutivo Nro. 884*, http://www.oas.org/es/sla/ddi/docs/tratados_multilaterales_suspencion_garantias_Ecuador_nota_No_4-2-295-2019.pdf. [411]
- Government of Ecuador (2019), *Encuesta Nacional sobre Relaciones Familiares y Violencia de Género contra las Mujeres*, https://www.ecuadorencifras.gob.ec/documentos/web-inec/Estadisticas_Sociales/Violencia_de_genero_2019/Boletin_Tecnico_ENVIGMU.pdf. [171]
- Government of Ecuador (2019), *Examen especial al Proyecto Minero Llurimagua*, <https://www.contraloria.gob.ec/WFDescarga.aspx?id=57938&tipo=inf>. [413]
- Government of Ecuador (2019), *Intervención del Ecuador como país concernido luego de la presentación del Informe de la Relatora Especial sobre los derechos de los pueblos indígenas sobre su visita al Ecuador durante la 42ª Sesión Ordinaria del Consejo de Derechos Humanos*, https://hrcmeetings.ohchr.org/HRCSessions/HRCDocuments/31/OTH/OTH_991_68_a382a52d_ee55_4277_9418_097e0bae2c26.doc. [414]

- Government of Ecuador (2019), *Ley Orgánica de las Personas Adultas Mayores*, [63]
https://www.gob.ec/sites/default/files/regulations/2019-06/Documento_%20LEY%20ORGANICA%20DE%20LAS%20PERSONAS%20ADULTAS%20MAYORES.pdf.
- Government of Ecuador (2019), *Ley Orgánica de Simplificación y Progresividad Tributaria*, [330]
https://www.gob.ec/sites/default/files/regulations/2021-01/Ley%20Org%C3%A1nica%20de%20Simplificaci%C3%B3n%20y%20Progresividad%20Tributaria_1.pdf.
- Government of Ecuador (2019), *Plan Nacional de Integridad Pública y Lucha Contra la Corrupción 2019-2023*, [264]
<https://www.contraloria.gob.ec/WFDescarga.aspx?id=2629&tipo=doc>.
- Government of Ecuador (2019), *Press release: “Acciones que Educan” Por Un Ecuador Libre De Trabajo Infantil*, [155]
<https://www.trabajo.gob.ec/acciones-que-educan-por-un-ecuador-libre-de-trabajo-infantil/>.
- Government of Ecuador (2019), *Press release: Alianza estratégica para reducir el trabajo infantil y el trabajo forzoso en las cadenas de suministro del aceite de palma*, [385]
<https://www.trabajo.gob.ec/alianza-estrategica-para-reducir-el-trabajo-infantil-y-el-trabajo-forzoso-en-las-cadenas-de-suministro-del-aceite-de-palma/>.
- Government of Ecuador (2019), *Press release: Ecuador cuenta con un nuevo Fondo de Responsabilidad Social y Sostenibilidad*, [52]
<https://www.ambiente.gob.ec/ecuador-cuenta-con-un-nuevo-fondo-de-responsabilidad-social-y-sostenibilidad/>.
- Government of Ecuador (2019), *Press release: Fiscalía y Comisión de Expertos Internacionales de Lucha Contra la Corrupción firman acuerdo*, [277]
<https://www.fiscalia.gob.ec/fiscalia-y-comision-de-expertos-internacionales-de-lucha-contra-la-corrupcion-firman-acuerdo/>.
- Government of Ecuador (2019), *Press release: Gobierno Nacional crea Comisión de Expertos Internacionales para la Lucha contra la Corrupción*, [275]
<https://www.presidencia.gob.ec/gobierno-nacional-crea-comision-de-expertos-internacionales-para-la-lucha-contra-la-corrupcion/>.
- Government of Ecuador (2019), *Press release: USD 3.800 millones de inversión minera hasta 2021 darán más prosperidad al Ecuador*, [470]
<https://www.finanzas.gob.ec/usd-3-800-millones-de-inversion-minera-hasta-2021-daran-mas-prosperidad-al-ecuador/>.
- Government of Ecuador (2019), *Proyecto de Erradicación del Trabajo Infantil*, [153]
https://www.trabajo.gob.ec/wp-content/uploads/2021/06/Documento-Proyecto-Erradicacion-del-Trabajo-Infantil_compressed.pdf.
- Government of Ecuador (2019), *Reglamento al Código Orgánico del Ambiente*, [412]
https://www.gob.ec/sites/default/files/regulations/2019-09/Documento_RCOA%20RO%20507.pdf.
- Government of Ecuador (2019), *Resolución Nro. 104-2019 del Pleno del Consejo de la Judicatura*, [268]
<https://www.funcionjudicial.gob.ec/www/pdf/resoluciones/2019/104-2019.pdf>.
- Government of Ecuador (2018), *Auditoría de gestión al cumplimiento de la planificación estratégica, planes operativos, metas y objetivos institucionales en la Empresa Nacional Minera ENAMI EP y entidades relacionadas (2018-2022)*, [420]
<https://www.contraloria.gob.ec/WFDescarga.aspx?id=67221&tipo=inf>.

- Government of Ecuador (2018), *Convenio Marco de Cooperación Institucional entre la Fiscalía General del Estado y el Servicio Nacional de Contratación Pública*, [298]
<https://portal.compraspublicas.gob.ec/sercop/wp-content/uploads/2019/11/7.-CONVENIOFISCALIAGENERALDELECUADORYSERCOP.pdf>.
- Government of Ecuador (2018), *Decreto Ejecutivo Nro. 252*, [436]
<https://www.registroficial.gob.ec/index.php/registro-oficial-web/publicaciones/suplementos/item/9998-suplemento-al-registro-oficial-no-158>.
- Government of Ecuador (2018), *Decreto Ejecutivo Nro. 371*, [44]
https://www.registroficial.gob.ec/index.php/registro-oficial-web/publicaciones/suplementos/item/download/9400_0da93420d908cf8ea1a4378bdeaf84b5.
- Government of Ecuador (2018), *Informe de Gestión de la Procuraduría General del Estado, abril 2008 - enero 2018*, [354]
<http://www.pge.gob.ec/images/2018/rendicion/20180131/PGE%20IG%20abr2008%20ene2018.pdf>.
- Government of Ecuador (2018), *Informe de observancia de trabajo infantil*, [151]
<https://drive.google.com/file/d/1kxOiU7EAXixKBQarbVdxAfnIGNI-0dBn/view>.
- Government of Ecuador (2018), *Ley Orgánica Integral para Prevenir y Erradicar la Violencia contra la Mujer*, [93]
https://www.igualdad.gob.ec/wp-content/uploads/downloads/2018/05/ley_prevenir_y_erradicar_violencia_mujeres.pdf.
- Government of Ecuador (2018), *Pacto del Gobierno Nacional con Niños, Niñas y Adolescentes - Creación del Sello Empresarial por Productos Libres de Violencia y Trabajo Infantil*, [156]
<https://www.inclusion.gob.ec/wp-content/uploads/2018/05/2018.05.10-4.-Pacto-sello-empresarial.pdf>.
- Government of Ecuador (2018), *Press release: Ecuador propone nuevos acuerdos de inversión que protegen al país y defienden los derechos humanos*, [361]
<https://www.cancilleria.gob.ec/2018/03/08/ecuador-propone-nuevos-acuerdos-de-inversion-que-protegen-al-pais-y-defienden-los-derechos-humanos/>.
- Government of Ecuador (2017), *Acuerdo Ministerial Nro. MDT-2017-0082 que expide la Normativa para la Erradicación de la Discriminación en el Ámbito Laboral*, [127]
https://www.gob.ec/sites/default/files/regulations/2018-11/Documento_Acuerdo-Ministerial-82-16-JUNIO-2017.pdf.
- Government of Ecuador (2017), *Decreto Ejecutivo Nro. 21*, [274]
https://www.presidencia.gob.ec/wp-content/uploads/2018/04/a2_29_Decreto_-21_Estrategia_-_Nacional_Transparencia_mar_2018.pdf.
- Government of Ecuador (2017), *Estatuto orgánico por procesos del Ministerio del Trabajo*, [137]
<https://www.trabajo.gob.ec/wp-content/uploads/2019/03/ESTATUTO-MINISTERIO-DEL-TRABAJO-29112018.pdf>.
- Government of Ecuador (2017), *Ley Orgánica de Movilidad Humana*, [64]
https://www.cancilleria.gob.ec/wp-content/uploads/2021/04/ley_orga%CC%81nica_de_movilidad_humana_2021.pdf.

- Government of Ecuador (2017), *Plan Nacional de Desarrollo 2017-2021, Toda una Vida*, [43]
https://www.planificacion.gob.ec/wp-content/uploads/downloads/2017/10/PNBV-26-OCT-FINAL_0K.compressed1.pdf.
- Government of Ecuador (2017), *Press release: Canciller inaugurará la presentación a la ciudadanía del Informe sobre los TBI y el Arbitraje Internacional*, [359]
<https://www.cancilleria.gob.ec/2017/05/08/canciller-inaugurara-la-presentacion-a-la-ciudadania-del-informe-sobre-los-tbi-y-el-arbitraje-internacional/>.
- Government of Ecuador (2017), *Press release: Ecuador aprueba por unanimidad la ratificación del Acuerdo de París sobre Cambio Climático*, [190]
<https://www.cancilleria.gob.ec/2017/06/22/ecuador-aprueba-por-unanimidad-la-ratificacion-del-acuerdo-de-paris-sobre-cambio-climatico/>.
- Government of Ecuador (2016), *Estrategia Nacional de Biodiversidad 2015-2030*, [198]
<http://maetransparente.ambiente.gob.ec/documentacion/WebAPs/Estrategia%20Nacional%20de%20Biodiversidad%202015-2030%20-%20CALIDAD%20WEB.pdf>.
- Government of Ecuador (2016), *Instrumentos internacionales sobre medio ambiente y desarrollo sostenible*, [189]
<https://www.ambiente.gob.ec/wp-content/uploads/downloads/2016/10/Convenios-Acuerdos-Tratados-Multilaterales-sobre-medio-ambiente.pdf>.
- Government of Ecuador (2016), *Metodología para la medición del empleo en el Ecuador*, [415]
[https://www.ecuadorencifras.gob.ec/documentos/web-inec/EMPLEO/2016/Septiembre-2016/Nota%20metodologica%20final%20actualizada%20\(Septiembre-16\).pdf](https://www.ecuadorencifras.gob.ec/documentos/web-inec/EMPLEO/2016/Septiembre-2016/Nota%20metodologica%20final%20actualizada%20(Septiembre-16).pdf).
- Government of Ecuador (2016), *Plan Nacional de Desarrollo del Sector Minero*, [226]
<http://extwprlegs1.fao.org/docs/pdf/ecu166602anx.pdf>.
- Government of Ecuador (2016), *Press release: Ecuador presenta la Estrategia Nacional de Biodiversidad*, [199]
<https://www.ambiente.gob.ec/ecuador-presenta-la-estrategia-nacional-de-biodiversidad/>.
- Government of Ecuador (2016), *Press release: Ecuador, entre ocho países que han ratificado todos los instrumentos interamericanos de DDHH*, [61]
<https://www.cancilleria.gob.ec/2016/12/10/ecuador-entre-ocho-paises-que-han-ratificado-todos-los-instrumentos-interamericanos-de-dd-hh/>.
- Government of Ecuador (2016), *Resolución Nro. PLE-CPCCS-180-05-04-2016*, [76]
<https://www.cpccs.gob.ec/wp-content/uploads/2016/11/Reglamento-consejos-nacionales-de-igualdad.pdf>.
- Government of Ecuador (2015), *Acuerdo Ministerial Nro. 140 que expide el Marco Institucional para Incentivos Ambientales*, [243]
https://www.ambiente.gob.ec/wp-content/uploads/downloads/2019/12/ACUERDO-MINISTERIAL-140_REGISTRO-OFICIAL-387-INCENTIVOS-AMBIENTALES-SOLO-140.pdf.
- Government of Ecuador (2015), *Acuerdo Ministerial Nro. MDT-2015-0077 que crea el Centro de Mediación Laboral*, [142]
<https://www.trabajo.gob.ec/wp-content/uploads/2018/04/Acuerdo-de-creacion-Centro-de-Mediacion-Laboral.pdf?x42051>.
- Government of Ecuador (2015), *Código Orgánico General de Procesos*, [206]
<https://www.funcionjudicial.gob.ec/pdf/CODIGO%20ORGANICO%20GENERAL%20DE%20ROCESOS.pdf>.

- Government of Ecuador (2014), *Código Orgánico Integral Penal*, [68]
<https://biblioteca.defensoria.gob.ec/bitstream/37000/3427/1/C%3%B3digo%20Org%3%A1nico%20Integral%20Penal.pdf>.
- Government of Ecuador (2014), *Ley Orgánica de los Consejos Nacionales para la Igualdad*, [65]
<https://www.igualdadgenero.gob.ec/wp-content/uploads/2017/03/11-Ley-Org%C3%A1nica-de-los-Consejos.pdf>.
- Government of Ecuador (2014), *Reglamento Ambiental de Actividades Mineras*, [196]
https://www.ambiente.gob.ec/wp-content/uploads/downloads/2015/02/REGLAMENTO_AMBIENTAL_DE_ACTIVIDADES_MINERAS_MINISTERIO_AMBIENTE.pdf.
- Government of Ecuador (2013), *Decreto Ejecutivo Nro. 1506*, [358]
https://nanopdf.com/download/no-958-del-21-05-2013-pagina-oficial-de-la-camara-de-industrias_pdf.
- Government of Ecuador (2013), *Política de Estado La Estrategia Nacional de Cambio Climático*, [239]
https://www.gob.ec/sites/default/files/regulations/2018-10/Documento_Politica-Estado-Estrategia-Nacional-Cambio-Climatico.pdf.
- Government of Ecuador (2013), *Reglamento de Organizaciones Laborales*, [149]
https://www.gob.ec/sites/default/files/regulations/2018-10/Documento_Reglamento_de_Organizaciones_Laborales.pdf.
- Government of Ecuador (2012), *Ley Orgánica de Discapacidades*, [66]
https://www.gob.ec/sites/default/files/regulations/2019-02/Documento_Ley-Organica-Discapacidades.pdf.
- Government of Ecuador (2010), *Código Orgánico de Organización Territorial*, [91]
https://www.defensa.gob.ec/wp-content/uploads/downloads/2016/01/dic15_CODIGO-ORGANICO-DE-ORGANIZACION-TERRITORIAL-COOTAD.pdf.
- Government of Ecuador (2010), *Código Orgánico de Planificación y Finanzas Públicas*, [416]
https://spryn2.finanzas.gob.ec/esipren-web/archivos_html/file/C%C3%B3digo%20de%20Planificaci%C3%B3n%20y%20Finanzas%20P%C3%ABlicas.pdf.
- Government of Ecuador (2010), *Decreto Ejecutivo Nro. 495*, [237]
<http://extwprlegs1.fao.org/docs/pdf/ecu140057.pdf>.
- Government of Ecuador (2010), *Ley Orgánica de Participación Ciudadana*, [262]
<https://www.educacionsuperior.gob.ec/wp-content/uploads/downloads/2014/10/DynamicPDF-1.pdf>.
- Government of Ecuador (2009), *Código Orgánico de la Función Judicial*, [417]
<https://www.gob.ec/sites/default/files/regulations/2018-10/C%C3%B3digo%20Org%C3%A1nico%20de%20la%20Funci%C3%B3n%20Judicial.pdf>.
- Government of Ecuador (2009), *Decreto Ejecutivo Nro. 1815*, [236]
https://cetesb.sp.gov.br/proclima/wp-content/uploads/sites/36/2014/08/231109-110115DECRETO_N18151.pdf.

- Government of Ecuador (2009), *Ley Orgánica de Empresas Públicas*, [118]
<https://www.telecomunicaciones.gob.ec/wp-content/uploads/2017/05/LEY-ORGANICA-DE-EMPRESAS-PUBLICAS.pdf>.
- Government of Ecuador (2009), *Ley Orgánica del Consejo de Participación Ciudadana y Control Social*, [418]
<https://www.epn.edu.ec/wp-content/uploads/2018/08/Ley-Org%C3%A1nica-del-Consejo-de-Participaci%C3%B3n-Ciudadana-y-Control-Social.pdf>.
- Government of Ecuador (2008), *Constitución de la República del Ecuador*, [117]
https://www.asambleanacional.gob.ec/sites/default/files/documents/old/constitucion_de_bolsillo.pdf.
- Government of Ecuador (2008), *Ley Orgánica del Sistema Nacional de Contratación Pública*, [295]
<https://portal.compraspublicas.gob.ec/sercop/wp-content/uploads/2021/09/losncpactualizada.pdf>.
- Government of Ecuador (2007), *Ley Orgánica de las Instituciones Públicas de Pueblos Indígenas del Ecuador que se Autodefinen como Nacionalidades de Raíces Ancestrales*, [67]
https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/EQU/INT_CCPR_CSS_EC_U_24049_S.pdf.
- Government of Ecuador (2006), *Ley de derechos colectivos de los pueblos negros o afroecuatorianos*, [437]
https://adsdatabase.ohchr.org/IssueLibrary/ECUDOR_Ley%20de%20los%20Derechos%20colectivos%20de%20los%20Pueblos%20Negros%20o%20Afroecuatorianos.docx.
- Government of Ecuador (2005), *Código del Trabajo*, [119]
<https://www.finanzas.gob.ec/wp-content/uploads/downloads/2015/03/C%C3%B3digo-del-Trabajo.pdf>.
- Government of Ecuador (2005), *Ley de Mediación y Arbitraje*, [419]
https://www.gob.ec/sites/default/files/regulations/2019-09/LEY%20DE%20ARBITRAJE%20Y%20MEDIACION_21_08_2018.pdf.
- Government of Ecuador (2004), *Ley Orgánica de Transparencia y Acceso a la Información Pública*, [263]
<https://biblioteca.defensoria.gob.ec/bitstream/37000/3372/1/Ley%20Org%C3%A1nica%20de%20Transparencia%20y%20Acceso%20a%20la%20Informaci%C3%B3n%20P%C3%Bablica%20%2822-10-2009%29.pdf>.
- Government of Ecuador (2003), *Código de la Niñez y la Adolescencia*, [92]
https://www.gob.ec/sites/default/files/regulations/2018-09/Documento_C%C3%B3digo-Ni%C3%B1ez-Adolescencia.pdf.
- Government of Ecuador (2001), *Ley de Seguridad Social*, [120]
<https://www.gob.ec/sites/default/files/regulations/2018-10/LEY%20DE%20SEGURIDAD%20SOCIAL.pdf>.
- Government of Ecuador (n.d.), *Aprobación de estatutos y personería jurídica en organizaciones laborales*, [147]
<https://www.gob.ec/mt/tramites/aprobacion-estatutos-personeria-juridica-organizaciones-laborales>.

- Government of Ecuador (n.d.), *Compras públicas sostenibles - Ecuador. Informe Estado de Situación*, [294]
https://www.oneplanetnetwork.org/sites/default/files/spp_status_assessment_report_of_ecuador.pdf.
- Government of Ecuador (n.d.), *Consejos Nacionales para la Igualdad*, [75]
<https://www.cpccs.gob.ec/designacion-de-autoridades/consejos-nacionales-de-igualdad/#1480556787205-e4fb114a-d4ad>.
- Government of Ecuador (n.d.), *Ecuador Destination of Investments - Investment Portfolio*, [343]
<https://sites.google.com/view/inversiones-ec/ingl%C3%A9s/investment-portfolio>.
- Government of Ecuador (n.d.), *Organizaciones Laborales*, [445]
<https://www.trabajo.gob.ec/organizaciones-laborales/#:~:text=Organizaciones%20Laborales%20CREACI%C3%93N%20DE%20ORGANIZACIONES%20LABORALES%20El%20Ministerio,sean%20estas%20asociaciones%2C%20sindicatos%20o%20comit%C3%A9s%20de%20empresa>.
- Government of Ecuador (n.d.), *Press release: Ecuador cuenta con Normativa sobre Cambio Climático*, [235]
<https://www.ambiente.gob.ec/ecuador-cuenta-con-normativa-sobre-cambio-climatico/>.
- Government of Ecuador (n.d.), *Press release: El MAE invierte 22 millones en el Programa Socio Bosque*, [438]
<https://www.ambiente.gob.ec/el-mae-invierte-22-millones-en-el-programa-socio-bosque/>.
- Government of Ecuador (n.d.), *Press release: El Sello Libre de Violencia y Trabajo Infantil busca garantizar derechos*, [158]
<https://www.igualdad.gob.ec/el-sello-libre-de-violencia-y-trabajo-infantil-busca-garantizar-derechos/>.
- Government of Ecuador (n.d.), *Press release: MAE trabaja en programas de mitigación y adaptación para reducir emisiones de Co2 en Ecuador*, [234]
<https://www.ambiente.gob.ec/mae-trabaja-en-programas-de-mitigacion-y-adaptacion-para-reducir-emisiones-de-co2-en-ecuador/>.
- Government of Ecuador (n.d.), *Press release: Primera propuesta de reformas laborales fue consensuada en sesión del Consejo Nacional del Trabajo y Salarios*, [145]
<https://www.trabajo.gob.ec/primera-propuesta-de-reformas-laborales-fue-consensuada-en-sesion-del-consejo-nacional-del-trabajo-y-salarios/>.
- Government of Ecuador (n.d.), *Press release: Programa Socio Bosque*, [423]
<https://www.ambiente.gob.ec/programa-socio-bosque/#:~:text=Socio%20Bosque%20consiste%20en%20la%20entrega%20de%20incentivos,sus%20bosques%20nativos%2C%20p%C3%A1ramos%20u%20otra%20vegetaci%C3%B3n%20nativa>.
- Government of Ecuador (Forthcoming), *Propuesta teórico-conceptual para el diseño e implementación de la política integral para la promoción y protección de los derechos de las personas defensoras de los derechos humanos y de la naturaleza*, [115]
- Government of Ecuador (n.d.), *Website: Acuerdos Comerciales*, [23]
<https://www.produccion.gob.ec/acuerdos-comerciales/>.

- Government of Ecuador (n.d.), *Website: Avances 2017-2021 PETI*, [51]
<https://www.trabajo.gob.ec/avances-2017-2018-peti/>.
- Government of Ecuador (n.d.), *Website: Centro de Mediación Laboral*, [141]
<https://www.trabajo.gob.ec/centro-de-mediacion-laboral/>.
- Government of Ecuador (n.d.), *Website: Combatamos la Corrupción*, [297]
<https://portal.compraspublicas.gob.ec/sercop/combatamos-la-corrupcion/>.
- Government of Ecuador (n.d.), *Website: Contrataciones Abiertas Ecuador - OCDS*, [428]
<https://datosabiertos.compraspublicas.gob.ec/PLATAFORMA>.
- Government of Ecuador (n.d.), *Website: Dirección de Organizaciones Laborales del Ministerio del Trabajo*, [136]
<https://www.trabajo.gob.ec/organizaciones-laborales/#:~:text=Organizaciones%20Laborales%20CREACI%C3%93N%20DE%20ORGANIZACIONES%20LABORALES%20EI%20Ministerio,sean%20estas%20asociaciones%2C%20sindicatos%20o%20comit%C3%A9s%20de%20empresa>.
- Government of Ecuador (n.d.), *Website: Fiscalías especializadas de la Fiscalía General del Estado*, [77]
<https://www.fiscalia.gob.ec/secciones/fiscalias-especializadas/>.
- Government of Ecuador (n.d.), *Website: Misión y visión del Programa de Reparación Ambiental y Social*, [207]
<http://pras.ambiente.gob.ec/mision-y-vision>.
- Government of Ecuador (n.d.), *Website: Objetivos del Programa de Reparación Ambiental y Social*, [208]
<http://pras.ambiente.gob.ec/objetivos>.
- Government of Ecuador (n.d.), *Website: Organigrama del Ministerio de Trabajo*, [134]
<https://www.trabajo.gob.ec/organigrama-del-ministerio-de-relaciones-laborales/>.
- Government of Ecuador (n.d.), *Website: Seguridad, Salud en el Trabajo y Gestión Integral de Riesgos*, [135]
<https://www.trabajo.gob.ec/seguridad-salud-en-el-trabajo-y-gestion-integral-de-riesgos/>.
- Government of Ecuador (n.d.), *Website: Sistema Unico de Información Ambiental*, [204]
<http://suia.ambiente.gob.ec/>.
- Government of Ecuador (n.d.), *Website: Superintendentes*, [157]
<https://www.cpcacs.gob.ec/designacion-de-autoridades/superintendentes/#:~:text=%2D%20Las%20superintendencias%20son%20organismos%20t%C3%A9cnicos,al%20ordenamiento%20jur%C3%ADdico%20y%20atiendan>.
- Government of Ecuador (n.d.), *Website: Unidad de Transparencia y Lucha contra la Corrupción*, [271]
<https://www.fiscalia.gob.ec/unidad-de-transparencia-y-lucha-contra-la-corrupcion/>.
- Government of Ecuador (n.d.), *Website: Valores/ Misión/ Visión del MDT*, [133]
<https://www.trabajo.gob.ec/valores-mision-vision/>.
- Government of Mexico (2021), *¿Qué es el Padrón de Integridad Empresarial?*, [282]
<https://padron.apps.funcionpublica.gob.mx/que-es-el-padron-de-integridad-empresarial/>.
- Government of Mexico (2021), *Padrón de Integridad Empresarial – Capacitación – Política de integridad*, [284]
<https://padron.apps.funcionpublica.gob.mx/capacitacion/>.

- Government of Mexico (2021), *Padrón de Integridad Empresarial – Distintivo*, [286]
<https://padron.apps.funcionpublica.gob.mx/#:~:text=El%20Padr%C3%B3n%20de%20Integridad%20Empresarial%20de%20la%20Secretar%C3%ADa%20de%20la,organismos%20internacionales%2C%20sociedad%20civil%20y.>
- Government of Mexico (2021), *Padrón de Integridad Empresarial – Infografías*, [285]
[https://padron.apps.funcionpublica.gob.mx/infografias/.](https://padron.apps.funcionpublica.gob.mx/infografias/)
- Government of Mexico (2021), *Padrón de Integridad Empresarial – Preguntas Frecuentes*, [283]
[https://padron.apps.funcionpublica.gob.mx/preguntas-frecuentes/.](https://padron.apps.funcionpublica.gob.mx/preguntas-frecuentes/)
- Government of Norway (2019), *2019-2020 Report to the Storting – The State’s direct ownership of companies – Sustainable value creation*, [327]
[https://www.regjeringen.no/contentassets/44ee372146f44a3eb70fc0872a5e395c/en-gb/pdfs/stm201920200008000engpdfs.pdf.](https://www.regjeringen.no/contentassets/44ee372146f44a3eb70fc0872a5e395c/en-gb/pdfs/stm201920200008000engpdfs.pdf)
- Government of Norway (2018), *Smartere innkjøp – effektive og profesjonelle offentlige anskaffelser (2018-2019)*, [400]
[https://www.regjeringen.no/contentassets/2d7006f67c374cbdab5d4d6ba7198ebd/no/pdfs/stm201820190022000dddpdfs.pdf.](https://www.regjeringen.no/contentassets/2d7006f67c374cbdab5d4d6ba7198ebd/no/pdfs/stm201820190022000dddpdfs.pdf)
- Government of Norway (2017), *Forskrift om offentlige anskaffelser (anskaffelsesforskriften)*, [469]
[https://lovdata.no/dokument/SF/forskrift/2016-08-12-974?q=foa.](https://lovdata.no/dokument/SF/forskrift/2016-08-12-974?q=foa)
- Government of Norway (2001), *Lov om offentlige anskaffelser*, [468]
[https://lovdata.no/dokument/NL/lov/2016-06-17-73?q=anskaffelsesloven.](https://lovdata.no/dokument/NL/lov/2016-06-17-73?q=anskaffelsesloven)
- Government of Sweden (n.d.), *National Public Procurement Strategy*, [401]
[https://www.government.se/4aba88/contentassets/9ec42c71c00442a39d67169d3c25faed/national-public-procurement-strategy.pdf.](https://www.government.se/4aba88/contentassets/9ec42c71c00442a39d67169d3c25faed/national-public-procurement-strategy.pdf)
- Government of the Netherlands (2020), *Website: Corporate social responsibility (CSR)*, [338]
[https://business.gov.nl/regulation/corporate-social-responsibility/.](https://business.gov.nl/regulation/corporate-social-responsibility/)
- Government of the United States (2020), *2020 Findings on the Worst Forms of Child Labor - Ecuador*, [139]
[https://www.dol.gov/sites/dolgov/files/ILAB/child_labor_reports/tda2020/Ecuador.pdf.](https://www.dol.gov/sites/dolgov/files/ILAB/child_labor_reports/tda2020/Ecuador.pdf)
- Human Rights Watch (2021), *World Report 2021 - Ecuador*, [79]
[https://www.hrw.org/world-report/2021/country-chapters/ecuador.](https://www.hrw.org/world-report/2021/country-chapters/ecuador)
- IACHR (2012), *Case of the Kichwa Indigenous People of Sarayaku v. Ecuador, Judgement of June 27, 2012 (Merits and reparations)*, [100]
[https://www.corteidh.or.cr/docs/casos/articulos/seriec_245_ing.pdf.](https://www.corteidh.or.cr/docs/casos/articulos/seriec_245_ing.pdf)
- IADB (2021), *Now it is the Time to Foster Labor Formalization in Latin America and the Caribbean*, [425]
[https://blogs.iadb.org/gestion-fiscal/en/now-it-is-the-time-to-foster-labor-formalization-in-latin-america-and-the-caribbean/.](https://blogs.iadb.org/gestion-fiscal/en/now-it-is-the-time-to-foster-labor-formalization-in-latin-america-and-the-caribbean/)
- ICC Ecuador (n.d.), *Website: Comisiones de Trabajo*, [287]
[https://iccecuador.ec/comisiones-de-trabajo/#1557113310383-05af3158-46db.](https://iccecuador.ec/comisiones-de-trabajo/#1557113310383-05af3158-46db)
- ICSID (2021), *Press release: Ecuador ratifies the ICSID Convention*, [363]
[https://icsid.worldbank.org/news-and-events/news-releases/ecuador-ratifies-icsid-convention.](https://icsid.worldbank.org/news-and-events/news-releases/ecuador-ratifies-icsid-convention)

- IFAD (2021), *Website: Country Facts*, [14]
<https://www.ifad.org/en/web/operations/w/country/ecuador>.
- IISD (2017), *Press release: Ecuador denounces its remaining 16 BITs and publishes CAITISA audit report*, [360]
<https://www.iisd.org/itn/en/2017/06/12/ecuador-denounces-its-remaining-16-bits-and-publishes-caitisa-audit-report/>.
- ILO (2020), *Observation (CEACR) - adopted 2020, published 109th ILC session (2021) - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) - Ecuador*, [148]
https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100_COMMENT_ID,P13100_LANG_CODE:4060421,es.
- ILO (2019), *Observation (CEACR) - adopted 2019, published 109th ILC session (2021) - Labour Inspection Convention, 1947 (No. 81) - Ecuador*, [140]
https://www.ilo.org/dyn/normlex/es/f?p=1000:13100:0::NO::P13100_COMMENT_ID,P13100_LANG_CODE:4024108,en:NO.
- ILO (2018), *Políticas de formalización en América Latina – Avances y desafíos*, [404]
https://www.ilo.org/wcmsp5/groups/public/---americas/---ro-lima/documents/publication/wcms_645159.pdf.
- ILO (2014), *Informe en el que el Comité pide que se le mantenga informado de la evolución de la situación - Informe núm. 371*, [405]
https://www.ilo.org/dyn/normlex/es/f?p=1000:70006:0::NO:70006:P70006_COMPLAINT_TEXT_ID,P70006_PARAGRAPH_NO:3171938,309.
- ILO (2014), *P029 - Protocol of 2014 to the Forced Labour Convention, 1930*, [454]
https://www.ilo.org/dyn/normlex/es/f?p=1000:12100:0::NO::P12100_INSTRUMENT_ID,P12100_LANG_CODE:3174672,en:NO.
- ILO (2006), *GB.297/ESP/3, 297th Session, Committee on Employment and Social Policy, Strategies and Practice for Labour Inspection*, [138]
<https://www.ilo.org/public/english/standards/relm/gb/docs/gb297/pdf/esp-3.pdf>.
- ILO (2001), *Report of the Committee set up to examine the representation alleging non-observance by Ecuador of the Indigenous and Tribal Peoples Convention, 1989 (No. 169), made under article 24 of the ILO Constitution by the CEOSL*, [99]
https://www.ilo.org/dyn/normlex/es/f?p=1000:50012:0::NO::P50012_LANG_CODE:en:NO.
- ILO (2001), *Representation alleging non-observance by Ecuador of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), made under article 24 of the ILO Constitution by the ASECORH*, [131]
http://ilo.org/dyn/normlex/en/f?p=1000:50012:0::NO:50012:P50012_COMPLAINT_PROCEDURE_ID,P50012_LANG_CODE:2507247,en:NO.
- ILO (n.d.), *Comments adopted by the CEACR: Ecuador*, [132]
https://ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13201:0::NO::P13201_COUNTRY_ID:102616.
- ILO (n.d.), *Compilation of decisions of the Committee on Freedom of Association*, [406]
https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:70002:0::NO::P70002_HIER_ELEMENT_ID,P70002_HIER_LEVEL:3945366,1.

- ILO (n.d.), *Ratifications of C190 - Violence and Harassment Convention, 2019 (No. 190)*, [163]
https://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:3999810.
- ILO (n.d.), *Up-to-date Conventions and Protocols not ratified by Ecuador*, [160]
https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11210:0::NO::P11210_COUNTRY_ID:102616.
- ILO (n.d.), *Website: Country Profile - Ecuador*, [130]
https://ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11110:0::NO::P11110_COUNTRY_ID:102616.
- ILO (n.d.), *Website: Ratifications for Ecuador*, [116]
https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200_COUNTRY_ID:102616.
- ILO/OECD/UNOHCHR (2019), *Responsible Business - Key messages from international instruments*, [3]
<https://mneguidelines.oecd.org/Brochure-responsible-business-key-messages-from-international-instruments.pdf>.
- IMF (2019), *Ecuador: Selected Issues and Analytical Notes*, [371]
<https://www.imf.org/~/-/media/Files/Publications/CR/2019/1ECUEA2019002.ashx>.
- IMF (n.d.), *Website: Ecuador*, [15]
<https://www.imf.org/en/Countries/ECU>.
- INABIO (2020), *Deforestación en paisajes forestales tropicales del Ecuador: bases científicas para perspectivas políticas*, [186]
http://inabio.biodiversidad.gob.ec/wp-content/uploads/2021/01/LAFORET_WEB.pdf.
- INEC (2022), *Encuesta Nacional de Empleo, Desempleo y Subempleo, Anual 2021*, [169]
<https://www.ecuadorencifras.gob.ec/documentos/web-inec/EMPLEO/2021/Anual-2021/Bolet%C3%ADn%20t%C3%A9cnico%20anual%20enero-diciembre%202021.pdf>.
- INEC (2021), *Directorio de Empresas y Establecimientos 2020*, [33]
https://www.ecuadorencifras.gob.ec/documentos/web-inec/Estadisticas_Economicas/DirectorioEmpresas/Directorio_Empresas_2020/Boletin_Tecnico_DIEE_2020.pdf.
- INEC (2021), *Encuesta de Empleo, Desempleo y Subempleo - Tabulados Mercado Laboral 2021*, [30]
<https://www.ecuadorencifras.gob.ec/enemdu-anual/>.
- INEC (2021), *Encuesta Nacional de Empleo, Desempleo y Subempleo, Agosto 2021*, [38]
https://www.ecuadorencifras.gob.ec/documentos/web-inec/EMPLEO/2021/Agosto-2021/202108_Boletin_empleo.pdf.
- INEC (2021), *Nivel de desempleo - Encuesta Nacional de Empleo, Desempleo y Subempleo*, [168]
<https://app.powerbi.com/view?r=eyJrljoiYTlZyE1Y2YtMTA0OS00OGJhLWE1YzMtZTVhYTY1ZGRjMDc3liwidCI6ImYxNThhMmU4LWNhZWmtNDQwNi1iMGFiLWY1ZTI1OWJkYTEyMiJ9>
- INEC (2012), *Encuesta Nacional de Trabajo Infantil*, [159]
https://www.ecuadorencifras.gob.ec/documentos/web-inec/Estadisticas_Sociales/Trabajo_Infantil-2012/Presentacion_Trabajo_Infantil.pdf.

- INEC/UNICEF (2015), *Trabajo infantil en Ecuador: hacia un entendimiento integral de la problemática*, https://www.ecuadorencifras.gob.ec/documentos/web-inec/Bibliotecas/Libros/Trabajo_Infantil_en_Ecuador.pdf. [154]
- ITUC (2020), *2020 ITUC Global Rights Index: The World's Worst Countries for Workers*, https://www.ituc-csi.org/IMG/pdf/ituc_globalrightsindex_2020_en.pdf. [129]
- ITUC (n.d.), *Survey of Violations of Trade Union Rights*, <https://survey.ituc-csi.org/Ecuador.html?lang=en#tabs-2>. [150]
- IWGIA (2020), *Indigenous World 2020: Ecuador*, <https://www.iwgia.org/en/ecuador/3620-iw-2020-ecuador.html>. [227]
- La Hora (2021), *Press release: Fiscalía no se adhiere a Mesa de Lucha contra la Corrupción planteada por Judicatura*, <https://lahora.com.ec/noticia/1102338054/fiscalia-no-se-adhiere-a-mesa-de-lucha-contra-la-corrupcion-planteada-por-judicatura>. [279]
- La Hora (n.d.), *Press release: Petroecuador acumula más de 1.000 casos de corrupción y procesos judiciales*, <https://www.lahora.com.ec/pais/petroecuador-corrupcion-procesos-judiciales-sobornos-vitol-gunvor-seguros-sucre-de-la-torre-prado/>. [309]
- LAPOP - AmericasBarometer (2019), *The Political Culture of Democracy in Ecuador*, https://www.vanderbilt.edu/lapop/ecuador/AB2018-19_Ecuador_RRR_Presentation_W_09.25.19.pdf. [253]
- Lessmann, J. et al. (2016), *Large expansion of oil industry in the Ecuadorian Amazon: biodiversity vulnerability and conservation alternatives*, <https://doi.org/10.1002/ece3.2099>. [182]
- MAATE (2021), *Press release: Programa Carbono Cero se pone en marcha en el Ecuador*, <https://www.ambiente.gob.ec/programa-carbono-cero-se-pone-en-marcha-en-el-ecuador/>. [452]
- MAATE (2021), *Press release: Sostenibilidad y crecimiento económico: Ecuador arrancó su transición ecológica*, <https://www.ambiente.gob.ec/sostenibilidad-y-crecimiento-economico-ecuador-arranco-su-transicion-ecologica/>. [453]
- MAATE (2020), *Sistema Nacional de Áreas Protegidas*, https://www.ambiente.gob.ec/wp-content/uploads/downloads/2020/04/2020_03_30-BOLETIN-FINAL.pdf. [370]
- MAPS (2018), *Methodology for Assessing Procurement Systems*, <http://www.mapsinitiative.org/methodology/>. [290]
- Mongabay (2021), *Press release: A year after Ecuador oil spill, Indigenous victims await justice, reparations*, <https://news.mongabay.com/2021/04/a-year-after-ecuador-oil-spill-indigenous-victims-await-justice-reparations/>. [214]
- Mongabay (2021), *Press release: Nuevo estudio: en los últimos 26 años Ecuador ha perdido más de 2 millones de hectáreas de bosque*, <https://es.mongabay.com/2021/03/nuevo-estudio-en-los-ultimos-26-anos-ecuador-ha-perdido-mas-de-2-millones-de-hectareas-de-bosque/>. [187]
- Mongabay (2021), *Press release: Tres datos para entender la gravedad de la deforestación en Ecuador*, <https://es.mongabay.com/2021/10/bosques-deforestacion-ecuador/>. [188]

- Mongabay (2020), *Press release: Ecuador - Polémica tras fusión del Ministerio del Ambiente con Secretaría del Agua*, <https://es.mongabay.com/2020/03/ecuador-fusion-ministerio-del-ambiente-senaqua-polemica/>. [205]
- Mongabay (2020), *Press release: Ecuador: Erosión de la cascada San Rafael rompe oleoductos y contamina el río Coca*, <https://es.mongabay.com/2020/04/cascada-san-rafael-derrame-petroleo-ecuador/>. [217]
- N. Basto-Aguirre, S. (2020), *Informality in Latin America in the post COVID-19 era: Towards a more formal 'new normal'?*, https://www.lacea.org/vox/?q=blog/informality_latam_postcovid19. [174]
- n.a. (2020), *VIII Reunión del Subcomité de Comercio y Desarrollo Sostenible - Acta Conjunta*, <https://circabc.europa.eu/ui/group/09242a36-a438-40fd-a7af-fe32e36cbd0e/library/ae9fc229-9d99-443e-a172-7515393f64e6/details>. [465]
- n.a. (2019), *VI Reunión del Subcomité de Comercio y Desarrollo Sostenible - Acta Conjunta*, <https://circabc.europa.eu/ui/group/09242a36-a438-40fd-a7af-fe32e36cbd0e/library/83b3e95b-e7eb-45cb-8238-f0b9addccd56/details>. [466]
- n.a. (2018), *V Reunión del Subcomité de Comercio y Desarrollo Sostenible - Acta Conjunta*, <https://circabc.europa.eu/ui/group/09242a36-a438-40fd-a7af-fe32e36cbd0e/library/7de825d6-bd62-465d-af30-a3c42b6d7244/details>. [464]
- New York Times (2021), *Press release: Ecuador's Death Toll During Outbreak Is Among the Worst in the World*, <https://www.nytimes.com/2020/04/23/world/americas/ecuador-deaths-coronavirus.html>. [36]
- OAS (2021), *Website: Anticorruption Portal of the Americas - Country Profile - Ecuador*, <http://www.oas.org/en/sla/dlc/mesicic/paises-pais.html?c=Ecuador>. [259]
- Observatorio de Conflictos Socioambientales del Ecuador (2019), *Website: Conflictos - Minería*, <https://www.observatoriosocioambiental.info/2019/03/24/mineria/>. [231]
- Observatorio de Conflictos Socioambientales del Ecuador (2019), *Website: Conflictos - Petróleo*, <https://www.observatoriosocioambiental.info/2019/03/07/petroleo/>. [225]
- Observatorio Jurídico de Derechos de la Naturaleza (n.d.), *Website: Derrame de petróleo en San Rafael*, <https://www.derechosdelanaturaleza.org.ec/casos/san-rafael/>. [218]
- Observatorio Jurídico de Derechos de la Naturaleza (n.d.), *Website: Proyecto Hidroeléctrico San José del Tambo*, <https://www.derechosdelanaturaleza.org.ec/casos/proyecto-hidroelectrico-san-jose-del-tambo/>. [210]
- Observatory of Economic Complexity (n.d.), *Website: Perfil del Ecuador*, <https://oec.world/en/profile/country/ecu>. [367]
- OECD (2021), *Annual Report on the OECD Guidelines for Multinational Enterprises 2020*, <https://mneguidelines.oecd.org/2020-Annual-Report-MNE-Guidelines-EN.pdf>. [82]
- OECD (2021), *Government at a Glance 2021*, OECD Publishing, Paris, <https://doi.org/10.1787/1c258f55-en>. [293]

- OECD (2021), *OECD Business and Finance Outlook 2021: AI in Business and Finance*, OECD Publishing, Paris, <https://doi.org/10.1787/ba682899-en>. [440]
- OECD (2021), *Public Integrity in Ecuador: Towards a National Integrity System*, <https://doi.org/10.1787/9623672c-en>. [265]
- OECD (2020), *Conclusiones y consideraciones de políticas de la Cumbre Ministerial sobre “Informalidad e inclusión social en tiempos de COVID-19 en América Latina y el Caribe”*, <https://www.oecd.org/latin-america/events/cumbre-ministerial-sobre-inclusion-social/LAC-Ministerial-2020-Conclusiones-y-consideraciones-politicas.pdf>. [458]
- OECD (2020), *Covid-19 and Responsible Business Conduct*, https://read.oecd-ilibrary.org/view/?ref=129_129619-6upr496iui&title=COVID-19-and-responsible-business-conduct. [365]
- OECD (2020), *Government at a Glance: Latin America and the Caribbean 2020*, OECD Publishing, Paris, <https://doi.org/10.1787/13130fbb-en>. [22]
- OECD (2020), *Impacto macroeconómico del Covid-19 en Ecuador: desafíos y respuestas*, <https://www.oecd.org/dev/Impacto-macroeconomico-COVID-19-Ecuador.pdf>. [460]
- OECD (2020), *Integrating Responsible Business Conduct in Public Procurement*, OECD Publishing, Paris, <https://doi.org/10.1787/02682b01-en>. [289]
- OECD (2020), *Notas para la sesión sobre “Informalidad y protección del empleo durante y después de Covid-19” de la Cumbre Ministerial sobre “Informalidad e inclusión social en tiempos de COVID-19 en América Latina y el Caribe”*, <https://www.oecd.org/latin-america/events/cumbre-ministerial-sobre-inclusion-social/2020-OCDE-LAC-Ministerial-Informalidad-y-la-protecci%C3%B3n-del-empleo-durante-y-despues-de-COVID-19.pdf>. [459]
- OECD (2020), *OECD Business and Finance Outlook 2020: Sustainable and Resilient Finance*, OECD Publishing, Paris, <https://doi.org/10.1787/26172577>. [305]
- OECD (2019), *Due Diligence for Responsible Corporate Lending and Securities Underwriting: Key considerations for banks implementing the OECD Guidelines for Multinational Enterprises*, <https://mneguidelines.oecd.org/Due-Diligence-for-Responsible-Corporate-Lending-and-Securities-Underwriting.pdf>. [6]
- OECD (2019), *Government at a Glance 2019*, OECD Publishing, Paris, <https://doi.org/10.1787/8ccf5c38-en>. [446]
- OECD (2019), *Guidelines on Anti-Corruption and Integrity in State-Owned Enterprises*, <http://www.oecd.org/corporate/Anti-Corruption-Integrity-Guidelines-for-SOEs.htm>. [308]
- OECD (2019), *Productivity in Public Procurement. A Case Study of Finland: Measuring the Efficiency and Effectiveness of Public Procurement*, <https://www.oecd.org/gov/public-procurement/publications/productivity-public-procurement.pdf>. [299]
- OECD (2019), *Trade Policy Brief - Engaging and consulting on trade agreements*, https://issuu.com/oecd.publishing/docs/engaging_and_consulting_on_trade_agreements. [352]
- OECD (2018), *Annual Report on the OECD Guidelines for Multinational Enterprises 2017*, <http://mneguidelines.oecd.org/2017-Annual-Report-MNE-Guidelines-EN.pdf>. [329]

- OECD (2018), *Investment Insights - Towards an International Framework for Investment Facilitation*, <https://www.oecd.org/investment/Towards-an-international-framework-for-investment-facilitation.pdf>. [339]
- OECD (2018), *Mapping of Investment Promotion Agencies in OECD Countries*, <http://www.oecd.org/investment/investment-policy/mapping-of-investment-promotion-agencies-in-OECD-countries.pdf>. [347]
- OECD (2018), *OECD Due Diligence Guidance for Responsible Business Conduct*, <https://mneguidelines.oecd.org/due-diligence-guidance-for-responsible-business-conduct.htm>. [5]
- OECD (2018), *OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector*, OECD Publishing, Paris, <https://doi.org/10.1787/9789264290587-en>. [7]
- OECD (2018), *OECD Guidelines for Multinational Enterprises National Contact Point Peer Reviews: Germany*, <https://mneguidelines.oecd.org/Germany-NCP-Peer-Review-2018.pdf>. [337]
- OECD (2018), *Recommendation of the Council on the OECD Due Diligence Guidance for Responsible Business Conduct*, OECD/LEGAL/0443, <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0443>. [4]
- OECD (2017), *OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector*, OECD Publishing, Paris, <https://doi.org/10.1787/9789264252462-en>. [8]
- OECD (2017), *Responsible business conduct for institutional investors: Key considerations for due diligence under the OECD Guidelines for Multinational Enterprises*, <https://mneguidelines.oecd.org/RBC-for-Institutional-Investors.pdf>. [9]
- OECD (2017), *Survey on integrity and anti-corruption in State-owned enterprises in Latin American and OECD countries*, <https://www.oecd.org/daf/ca/Survey-Integrity-Anti-Corruption-SOEs-Latin-America-OECD-countries.pdf>. [328]
- OECD (2017), *The Size and Sectoral Distribution of State-Owned Enterprises*, OECD Publishing, Paris, <https://doi.org/10.1787/9789264280663-en>. [302]
- OECD (2016), *Committing to Effective Whistleblower Protection*, OECD Publishing, Paris, <https://doi.org/10.1787/9789264252639-en>. [288]
- OECD (2016), *Development Co-operation Report 2016: The Sustainable Development Goals as Business Opportunities*, OECD Publishing, Paris, <https://doi.org/10.1787/dcr-2016-en>. [2]
- OECD (2016), *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas: Third Edition*, OECD Publishing, Paris, <https://doi.org/10.1787/9789264252479-en>. [10]
- OECD (2016), *State-Owned Enterprises as Global Competitors: A Challenge or an Opportunity?*, OECD Publishing, Paris, <https://doi.org/10.1787/9789264262096-en>. [304]
- OECD (2015), *Going Green: Best Practices for Sustainable Procurement*, https://www.oecd.org/gov/public-procurement/publications/Going_Green_Best_Practices_for_Sustainable_Procurement.pdf. [300]

- OECD (2015), *OECD Guidelines on Corporate Governance of State-Owned Enterprises, 2015 Edition*, OECD Publishing, Paris, <https://doi.org/10.1787/9789264244160-en>. [303]
- OECD (2015), *Policy Framework for Investment, 2015 Edition*, OECD Publishing, Paris, <https://doi.org/10.1787/9789264208667-en>. [1]
- OECD (2015), *Recommendation of the Council on Public Procurement*, <https://www.oecd.org/gov/public-procurement/OECD-Recommendation-on-Public-Procurement.pdf>. [291]
- OECD (2015), *Recommendation of the Council on the Policy Framework for Investment, OECD/LEGAL/0412*, <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0412>. [12]
- OECD (2011), *OECD Guidelines for Multinational Enterprises, 2011 Edition*, OECD Publishing, Paris, <https://doi.org/10.1787/9789264115415-en>. [439]
- OECD (Forthcoming, 2023), *Multi-dimensional Review of Ecuador*. [31]
- OECD (n.d.), *Website: Promoting Responsible business Conduct in Latin America and the Caribbean*, <https://mneguidelines.oecd.org/rbclac.htm>. [403]
- OECD/CAF (2019), *Latin America and the Caribbean 2019 : Policies for Competitive SMEs in the Pacific Alliance and Participating South American countries, SME Policy Index*, OECD Publishing, Paris, <https://doi.org/10.1787/d9e1e5f0-en>. [13]
- OECD/FAO (2016), *OECD-FAO Guidance for Responsible Agricultural Supply Chains*, OECD Publishing, Paris, <https://doi.org/10.1787/9789264251052-en>. [11]
- Petroecuador (2021), *Código de Ética*, <https://www.eppetroecuador.ec/wp-content/uploads/downloads/2021/12/CODIGO-DE-ETICA-II.pdf>. [313]
- Petroecuador (2021), *Press release: EP Petroecuador ejecuta nueve acciones principales, dentro de sus competencias, en coordinación con Fiscalía y la Procuraduría, para la defensa institucional en los casos de corrupción*, <https://www.eppetroecuador.ec/?p=10303>. [310]
- Petroecuador (2021), *Reporte de Sostenibilidad Empresarial 2020*, https://www.eppetroecuador.ec/wp-content/uploads/downloads/2021/06/Reporte-de-sostenibilidad-empresarial-23-06-21_anexo-arte.pdf. [312]
- Petroecuador (2019), *Política Antisoborno de la Empresa Pública de Hidrocarburos del Ecuador*, <https://www.eppetroecuador.ec/wp-content/uploads/downloads/2019/12/Politica-Antisoborno-EP-PETROECUADOR.pdf>. [315]
- Petroecuador (n.d.), *Política de Seguridad, Salud, Ambiente y Responsabilidad Social*, <https://www.eppetroecuador.ec/?p=3760>. [314]
- Petroecuador (n.d.), *Press release: EP Petroecuador cuenta con Unidad de Control y Prevención de Lavado de Activos*, <https://www.eppetroecuador.ec/?p=6048>. [461]
- Petroecuador EP (2021), *Organigrama General - EP Petroecuador*, <https://www.eppetroecuador.ec/wp-content/uploads/downloads/2021/06/ORGANIGRAMA-GENERAL.pdf>. [372]

- PIANOo (n.d.), *PIANOo: sharing expertise on public procurement*, [301]
<https://www.pianoo.nl/sites/default/files/documents/documents/sharingexpertiseonpublicprocurementoktober2009.pdf>.
- Pohl, J. (2018), *Societal benefits and costs of International Investment Agreements: A critical review of aspects and available empirical evidence*, *OECD Working Papers on International Investment*, 2018/01, OECD Publishing, Paris, <https://doi.org/10.1787/e5f85c3d-en>. [462]
- Prensa.ec (2021), *Press release: La Defensoría del Pueblo presenta propuesta enfocada a la protección de personas defensoras de derechos humanos y de la naturaleza*, [114]
<https://prensa.ec/tag/la-defensoria-del-pueblo-presenta-propuesta-enfocada-a-la-proteccion-de-personas-defensoras-de-derechos-humanos-y-de-la-naturaleza/>.
- Primicias (2021), *Press release: Inversionistas ante la expectativa de una ley para reglamentar la consulta previa*, <https://www.primicias.ec/noticias/economia/inversionistas-consulta-previa-actividades-extractivas/>. [103]
- Pro Ecuador (2021), *Jornada de capacitación: “Comercio Justo y Sostenibilidad” - Comercio justo y las alianzas entre compradores internacionales y productores: Un modelo de negocios que beneficia a los agricultores, artesanos y a los consumidores*, [335]
<https://www.proecuador.gob.ec/event/jornada-de-capacitacion-comercio-justo-y-sostenibilidad-comercio-justo-y-las-alianzas-entre-compradores-internacionales-y-productores-un-modelo-de-negocios-que-beneficia-a-los-agricultor/>.
- Pro Ecuador (2021), *Jornada de capacitación: “Comercio Justo y Sostenibilidad” - La importancia de la sostenibilidad para ingresar a mercados de la UE*, [334]
<http://proecuador.gob.ec/event/jornada-de-capacitacion-comercio-justo-y-sostenibilidad-la-importancia-de-la-sostenibilidad-para-ingresar-a-mercados-de-la-ue/>.
- Pro Ecuador (2018), *The Investor’s Guide 2018-2019*, <https://www.proecuador.gob.ec/guia-del-inversionista/>. [345]
- Pro Ecuador (n.d.), *Guía del Exportador*, <https://www.proecuador.gob.ec/guia-del-exportador/>. [336]
- Pro Ecuador (n.d.), *Ruta del Exportador*, <https://www.proecuador.gob.ec/ruta-del-exportador/>. [333]
- Pro Ecuador (n.d.), *Website: What is Pro Ecuador?*, <https://www.proecuador.gob.ec/>. [332]
- Provincial Court of Justice of Azuay (2018), *Judgment of 3 August 2018 in Case No. 01333201803145*, <https://www.derechosdelanaturaleza.org.ec/wp-content/uploads/2018/04/SENTENCIA-R%C3%8DO-BLANCO.pdf>. [230]
- Provincial Court of Justice of Loja (2011), *Judgement of 30 March 2011 in Case No. 11121-2011-0010*, https://elaw.org/system/files/ec.wheeler.loja_.pdf. [193]
- Provincial Court of Justice of Sucumbios (2021), *Judgement of 29 July 2021 in Case No. 21201202000170*, http://climatecasechart.com/climate-change-litigation/wp-content/uploads/sites/16/non-us-case-documents/2021/20210729_16152_ruling.pdf. [223]
- RAISG (2020), *Press release: Indígenas advierten a Ecuador sobre proyecto de ley de consulta previa*, <https://www.raisg.org/en/radar/indigenas-advierten-a-ecuador-sobre-proyecto-de-ley-de-consulta-previa/>. [102]
- RET (n.d.), *Website: ¿Qué es la RET?*, <https://ret.ecuador2030.org/que-es-la-ret/>. [57]

- Reuters (2021), *Press release: European lenders exit Amazon oil trade after scrutiny by campaigners*, <https://www.reuters.com/article/us-climate-change-banks-idUSKBN29U09Q>. [221]
- Reuters (2020), *Press release: 'Trapped again' - Quarantined Ecuador indigenous groups fight Amazon oil spill*, <https://news.trust.org/item/20200905070955-a6t55/>. [216]
- Sarayaku (2020), *Press release: En medio de una situación crítica por inundaciones y numerosos contagios de COVID-19, Sarayaku estará nuevamente ante un tribunal para reivindicar sus derechos territoriales*, <https://sarayaku.org/sarayaku-en-la-corte-constitucional-ecuatoriana/>. [101]
- Statista (2021), *Leading oil and gas companies in Latin America in 2020, based on sales revenue*, <https://www.statista.com/statistics/979044/leading-oil-companies-sales-latin-america/>. [307]
- SwissInfo (2021), *Press release: La corrupción le ha costado a Ecuador 70.000 millones de dólares, dice Lasso*, https://www.swissinfo.ch/spa/ecuador-corrupci%C3%B3n_la_corrupci%C3%B3n-le-ha-costado-a-ecuador-70.000-millones-de-d%C3%B3lares--dice-lasso/46945134. [244]
- Transparency International (2021), *2021 Corruption Perceptions Index*, <https://www.transparency.org/en/cpi/2021/index/ecu>. [254]
- Transparency International (2020), *2020 Corruption Perceptions Index*, <https://www.transparency.org/en/cpi/2020/index/ecu>. [248]
- Transparency International (2019), *2019 Corruption Perceptions Index*, <https://www.transparency.org/en/cpi/2019>. [247]
- Transparency International (2018), *2018 Corruption Perceptions Index*, <https://www.transparency.org/en/cpi/2018/index/ecu>. [255]
- Truthout (2016), *Bringing Corporations to Justice With Ecuador's UN Representative*, <https://truthout.org/video/bringing-corporations-to-justice-with-ecuador-s-un-representative/>. [356]
- UASB (2021), *Observatorio de la PyME, Preguntas PyME N°53*, https://www.uasb.edu.ec/observatorio-pyme/wp-content/uploads/sites/6/2021/04/fag_53.pdf. [32]
- UN Global Compact Ecuador (2021), *Press release: Pacto Global Ecuador llevó a cabo la primera sesión del Programa Target Gender Equality*, <https://pactoglobal-ecuador.org/pacto-global-ecuador-llevo-a-cabo-la-primera-sesion-del-programa-target-gender-equality/>. [55]
- UN Global Compact Ecuador (2021), *Taller: Implementar un Plan de Acción Nacional sobre Empresas y Derechos Humanos Encamina al Ecuador a un Panorama de Desarrollo*, <https://pactoglobal-ecuador.org/taller-implementar-un-plan-de-accion-nacional-sobre-empresas-y-derechos-humanos-encamina-al-ecuador-a-un-panorama-de-desarrollo/>. [70]
- UN Global Compact Ecuador (n.d.), *Nuestros Programas*, <https://pactoglobal-ecuador.org/nuestros-programas-2/>. [54]
- UN Human Rights Council (2020), *Final warning : death threats and killings of human rights defenders : report of the Special Rapporteur on the Situation of Human Rights Defenders, Mary Lawlor*, <https://digitallibrary.un.org/record/3898237?ln=en>. [107]

- UN Human Rights Council (2020), *Visit to Ecuador - Report of the Special Rapporteur on violence against women, its causes, and consequences*, [96]
<https://www.ohchr.org/en/documents/country-reports/ahrc4452add2-visit-ecuador-report-special-rapporteur-violence-against>.
- UN Human Rights Council (2019), *Report of the Special Rapporteur on the rights of indigenous peoples*, [95]
<https://www.ohchr.org/en/documents/thematic-reports/ahrc4237-rights-indigenous-peoples-report-special-rapporteur-rights>.
- UN Human Rights Council (2017), *Report of the Working Group on the Universal Periodic Review - Ecuador*, [78]
<https://www.ohchr.org/en/documents/reports/report-working-group-universal-periodic-review-ecuador>.
- UN Human Rights Council (2014), *26/9 Resolution adopted by the Human Rights Council: Elaboration of an international legally binding instrument on transnational corporations and other business enterprises with respect to human rights*, [41]
<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/082/52/PDF/G1408252.pdf?OpenElement>.
- UNCTAD (2021), *Website: Ecuador: Bilateral Investment Treaties*, [353]
<https://investmentpolicy.unctad.org/international-investment-agreements/countries/61/ecuador>.
- UNCTAD (2021), *Website: General Profile: Ecuador*, [340]
<https://unctadstat.unctad.org/CountryProfile/GeneralProfile/en-GB/218/GeneralProfile218.pdf>.
- UNDP (2019), *Press release: Ecuador receives US\$ 18.5 million for having reduced its deforestation*, [34]
<https://www.latinamerica.undp.org/content/rblac/en/home/presscenter/pressreleases/2019/ecuador-receives-us--18-5-million-for-having-reduced-its-defores.html>.
- United Nations (2022), *Report on the seventh session of the open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights*, [39]
<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G21/397/55/PDF/G2139755.pdf?>.
- United Nations (2020), *Website: Ecuador, UN Data*, [16]
<http://data.un.org/en/iso/ec.html>.
- United Nations (2019), *Ecuador's Nationally Determined Contribution*, [238]
<https://www4.unfccc.int/sites/ndcstaging/PublishedDocuments/Ecuador%20First/Primera%20NDC%20Ecuador.pdf>.
- United Nations (2015), *Transforming our world: the 2030 Agenda for Sustainable Development*, [463]
<https://sustainabledevelopment.un.org/post2015/transformingourworld/publication>.
- United Nations (n.d.), *Harmony with Nature - Rights of Nature Law and Policy*, [192]
<http://www.harmonywithnatureun.org/rightsOfNature/>.
- United Nations (n.d.), *United Nations Treaty Collection - Multilateral Treaties Deposited with the Secretary General - Chapter XXVII: Environment*, [191]
https://treaties.un.org/Pages/Treaties.aspx?id=27&subid=A&clang=_en.
- United Nations (n.d.), *United Nations Treaty Collection - Multilateral Treaties Deposited with the Secretary-General - Chapter IV: Human Rights*, [59]
https://treaties.un.org/Pages/Treaties.aspx?id=4&subid=A&clang=_en.

- UNODC (2021), *Website: Country Profile - Ecuador*, [260]
<https://www.unodc.org/unodc/en/corruption/country-profile/countryprofile.html#?CountryProfileDetails=%2Funodc%2Fcorruption%2Fcountry-profile%2Fprofiles%2Fecu.html>.
- UNOHCHR (2017), *Concluding observations on the combined twenty-third and twenty-fourth periodic reports of Ecuador*, [98]
<https://uhri.ohchr.org/en/document/0260bddb-44b7-4fad-a451-5328dc035d01>.
- UNOHCHR (2017), *Elements for the draft legally binding instrument on transnational corporations and other business enterprises with respect to human rights*, [429]
https://www.ohchr.org/Documents/HRBodies/HRCouncil/WGTransCorp/Session3/LegallyBindingInstrumentTNCs_OBEs.pdf.
- UNOHCHR (2011), *Guiding Principles on Business and Human Rights*, [430]
<https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr-en.pdf>.
- UNOHCHR (n.d.), *Website: Basic Facts about UPR*, [431]
<https://www.ohchr.org/en/hr-bodies/upr/basic-facts>.
- UNOHCHR (n.d.), *Website: The Core International Human Rights Instruments and their monitoring bodies*, [432]
<https://www.ohchr.org/en/core-international-human-rights-instruments-and-their-monitoring-bodies>.
- UNOHCHR (n.d.), *Website: UN Treaty Body Database – Ecuador*, [433]
<https://tbinternet.ohchr.org/SitePages/Home.aspx>.
- UNOHCHR (n.d.), *Website: Universal Periodic Review – Ecuador*, [434]
<https://www.ohchr.org/en/hr-bodies/upr/ec-index>.
- Volpe Martincus, C. and M. Sztajerowska (2019), *How to Solve the Investment Promotion Puzzle: A Mapping of Investment Promotion Agencies in Latin America and the Caribbean and OECD Countries*, [348]
<https://doi.org/10.18235/0001767>.
- Walk Free Foundation (2018), *Global Slavery Index 2018*, [161]
<https://www.globalslaveryindex.org/2018/data/maps/#prevalence>.
- WEF (2020), *Global Gender Gap Index 2020*, [167]
http://www3.weforum.org/docs/WEF_GGGR_2020.pdf.
- WEF (2019), *The Global Competitiveness Report 2019*, [245]
https://www3.weforum.org/docs/WEF_TheGlobalCompetitivenessReport2019.pdf.
- WEF (2017), *The Global Competitiveness Report 2017–2018*, [246]
<http://reports.weforum.org/global-competitiveness-index-2017-2018/countryeconomy-profiles/#economy=ECU>.
- World Bank (2021), *Website: World Development Indicators - Country Profile: Ecuador*, [27]
<https://data.worldbank.org/country/ecuador>.
- World Bank (2021), *World Development Indicators - Country Profile Ecuador*, [35]
<https://data.worldbank.org/country/EC>.
- World Bank (2020), *Doing Business 2020*, [368]
<https://doi.org/10.1596/978-1-4648-1440-2>.

- World Bank (2019), *Ecuador Trade and Investment Competitiveness Report*, [17]
<https://openknowledge.worldbank.org/handle/10986/32430?locale-attribute=en>.
- World Bank (2018), *Website: Ecuador - Systematic Country Diagnostic*, [175]
<https://openknowledge.worldbank.org/bitstream/handle/10986/30052/Ecuador-SCD-final-june-25-06292018.pdf?sequence=1&isAllowed=y>.
- World Bank (2017), *Website: Enterprise Surveys: Ecuador 2017 Country Profile*, [258]
<https://www.enterprisesurveys.org/en/data/exploreconomies/2017/ecuador#corruption>.
- World Bank (n.d.), *Website: Climate Change Knowledge Portal - Country Summary*, [233]
<https://climateknowledgeportal.worldbank.org/country/ecuador>.
- World Bank (n.d.), *Website: Total greenhouse gas emissions (kt of CO2 equivalent) – Ecuador*, [424]
<https://data.worldbank.org/indicator/EN.ATM.GHGT.KT.CE?end=2018&locations=EC&start=1970&view=chart>.
- World Justice Project (2021), *Rule of Law Index 2021*, [251]
<https://worldjusticeproject.org/sites/default/files/documents/WJP-INDEX-21.pdf>.
- World Justice Project (2021), *Website: Rule of Law Index 2021, Country Insights: Ecuador*, [62]
<https://worldjusticeproject.org/rule-of-law-index/country/2021/Ecuador/>.
- World Justice Project (2020), *Website: Rule of Law Index 2020, Country Insights: Ecuador*, [250]
<https://worldjusticeproject.org/rule-of-law-index/country/2020/Ecuador/>.
- WTO (2020), *Country Profile: Ecuador*, [467]
https://www.wto.org/english/res_e/statis_e/daily_update_e/trade_profiles/EC_e.pdf.
- WTO (2019), *Trade Policy Review: Ecuador*, [374]
https://www.wto.org/english/tratop_e/tpr_e/tp483_e.htm.
- Yale Center for Environmental Law and Policy (2022), *2022 Environmental Performance Index*, [181]
<https://epi.yale.edu/downloads/epi2022report06062022.pdf>.

Notes

¹ United Nations (2015), Transforming our world: the 2030 Agenda for Sustainable Development, paragraphs 39, 60 and 67, <https://sustainabledevelopment.un.org/post2015/transformingourworld/publication>.

² See, for instance, Sustainable Development Goals (SDGs) No. 8 “Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all”, No. 12 “Ensure sustainable consumption and production patterns” or No. 16 “Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels”. See United Nations (2015), Transforming our world: the 2030 Agenda for Sustainable Development, <https://sdgs.un.org/2030agenda>; OECD (n.d.), Responsible Business Conduct and the Sustainable Development Goals, <https://mneguidelines.oecd.org/RBC-and-the-sustainable-development-goals.pdf>.

³ United Nations (2015), Transforming our world: the 2030 Agenda for Sustainable Development, paragraphs 41 and 67, <https://sustainabledevelopment.un.org/post2015/transformingourworld/publication>.

⁴ The text of the OECD Policy Framework for Investment (PFI) is available in English and Spanish on the OECD’s website at: <http://www.oecd.org/investment/pfi.htm>.

⁵ OECD (2015), Policy Framework for Investment 2015 Edition, Chapter 7, <https://doi.org/10.1787/9789264208667-en>.

⁶ More information on the RBCLAC Project is available on the OECD’s website at: <https://mneguidelines.oecd.org/rbclac.htm>.

⁷ The following government entities reviewed the draft of Ecuador’s RBC Policy Review and provided inputs: Ministry of Foreign Affairs and Human Mobility; Ministry of Economy and Finance; Ministry of Production, Foreign Trade, Investment and Fisheries; Ministry of Energy and Mines; Ministry of the Environment, Water and the Ecological Transition; Ministry of Economic and Social Inclusion; Ministry of Agriculture and Livestock; Ministry of Tourism; Ministry of Transport and Public Works; Ministry of Labour; National Planning Secretariat; Human Rights Secretariat; Higher Education, Science and Technology Secretariat; Office of the Attorney-General; Coordinating Body for State-Owned Enterprises; State-Owned Hydrocarbons Company of Ecuador – Petroecuador EP; National Council for the Equality of Peoples and Nationalities; National Council for Disability Equality; National Council for Gender Equality; National Council for Equality of Human Mobility; National Council for Intergenerational Equality; Council of the Judiciary; Superintendence of Companies, Securities and Insurance; National Public Contracting Service; Internal Revenue Service; Office of the Public Defender; Office of the Ombudsman; Office of the Prosecutor General; Consortium of Provincial Autonomous Governments of Ecuador; Association of Municipalities of Ecuador; and Bank of the Ecuadorian Institute of Social Security.

⁸ The OECD Guidelines for Multinational Enterprises (the OECD MNE Guidelines) are part of the OECD Declaration on International Investment and Multinational Enterprises [[OECD/LEGAL/144](https://www.oecd.org/LEGAL/144)]. The text of

the Declaration, including the OECD MNE Guidelines, is available on the OECD's website at <http://mneguidelines.oecd.org/mneguidelines>.

⁹ The 51 Adherents to the OECD MNE Guidelines are: Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Canada, Chile, Colombia, Costa Rica, Croatia, the Czech Republic, Denmark, Egypt, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Jordan, Kazakhstan, Latvia, Lithuania, Luxembourg, Mexico, Morocco, the Netherlands, New Zealand, Norway, Peru, Poland, Portugal, Romania, Slovak Republic, Slovenia, South Korea, Spain, Sweden, Switzerland, Tunisia, Türkiye, Ukraine, the United Kingdom, the United States and Uruguay.

¹⁰ In 2015, the Policy Framework for Investment (PFI) became the subject of an OECD Council Recommendation [OECD/LEGAL/0412], which recommends that OECD Members and non-Members adhering to the Recommendation use, as appropriate, the PFI, in particular to facilitate coherence at all levels of government for better policy formulation and implementation. The text of the OECD Council Recommendation is available on the [Compendium of OECD Legal Instruments](https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0412) at: <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0412>.

¹¹ In terms of imports, the main groups of products imported by Ecuador are raw materials, consumer goods, capital goods, fuels and lubricants. Ecuador's imports come mainly from the United States, China, Colombia, Panama and Brazil.

¹² The National Development Plans (*Planes Nacionales de Desarrollo*, PNDs) are updated every four years and constitute the main tool for policy design in Ecuador. By legal mandate, they must be approved by each new administration within 90 days from the start of the term of the President of the Republic. See Government of Ecuador (2010), Código Orgánico de Planificación y Finanzas Públicas, https://spryn2.finanzas.gob.ec/esipren-web/archivos_html/file/C%C3%B3digo%20de%20Planificaci%C3%B3n%20y%20Finanzas%20P%C3%Ablicas.pdf.

¹³ These goals are backed up by various specific policies and territorial guidelines, some of which are relevant to RBC, such as: the policy seeking “the promotion of productive partnerships to encourage citizens to participate in the areas of production and sales” (Policy 3.3); the territorial guideline intended to “regulate the exploration for and exploitation of non-renewable natural resources, with the aim of minimising external social and environmental factors” (Territorial Guideline E7); the policy seeking to “implement better environmental practices with social and economic responsibility to enhance awareness and encourage sustainable production and consumption [...]” (Policy 12.3). See Government of Ecuador (2021), Plan de creación de oportunidades 2021-2025, https://siteal.iiep.unesco.org/sites/default/files/sit_accion_files/plan_de_creacion_de_oportunidades.pdf.

¹⁴ The United Nations Guiding Principles on Business and Human Rights (UNGPs) are a set of 31 principles for States and businesses to prevent, address and remedy business-related human rights abuses. They are built upon three pillars: (i) the State's responsibility to protect human rights against violations by business; (ii) the responsibility of businesses to respect human rights; and (iii) access to remedy for violations of human rights by businesses. They were adopted in 2011 by the United Nations Human Rights Council. See United Nations (2011), United Nations Guiding Principles on Business and Human Rights, https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf.

¹⁵ The nine core international human rights instruments are the following: the 1965 International Convention on the Elimination of All Forms of Racial Discrimination; the 1966 International Covenant on Civil and Political Rights; the 1966 International Covenant on Economic, Social and Cultural Rights; the 1979 Convention on the Elimination of All Forms of Discrimination against Women; the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the 1989 Convention on the Rights of the Child; the 1990 International Convention on the Protection of the Rights of All

Migrant Workers and Members of Their Families; the 2006 International Convention for the Protection of All Persons from Enforced Disappearance; and the 2006 Convention on the Rights of Persons with Disabilities. See OHCHR, The Core International Human Rights Instruments and their monitoring bodies, <https://www.ohchr.org/en/core-international-human-rights-instruments-and-their-monitoring-bodies>.

¹⁶ See United Nations (n.d.), UN Treaty Body Database – Ecuador, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/countries.aspx?Lang=en.

¹⁷ Government of Ecuador (2008), Constitución, Article 424, https://www.asambleanacional.gob.ec/sites/default/files/documents/old/constitucion_de_bolsillo.pdf.

¹⁸ The Human Rights Secretariat (*Secretaría de Derechos Humanos*, SDH) has the following functions: (i) “national and international human rights obligations”; (ii) “eradication of violence against women, children and adolescents”; (iii) “protection of indigenous peoples in voluntary isolation”; (iv) “movements, organisations, social stakeholders, religions, freedom of religion, faith and conscience”; and (v) “eradication of all forms of violence and discrimination based on sexual orientation and/or sex/gender diversity”. See Government of Ecuador (2021), Decreto Ejecutivo No. 216, <http://www.edicioneslegales-informacionadiciona.com/webmaster/directorio/2S577.pdf>.

¹⁹ Ecuador’s Ombudsman was the Chairperson of the Global Alliance of National Human Rights Institutions (GANHRI) from 2020 to 2021. See GANHRI (2020), New GANHRI Chairperson vows to defend national human rights institutions, <https://ganhri.org/new-ganhri-chairperson-vows-to-defend-national-human-rights-institutions>.

²⁰ Government of Ecuador (2008), Constitución, Article 215, https://www.asambleanacional.gob.ec/sites/default/files/documents/old/constitucion_de_bolsillo.pdf: “The functions of the Office of the Ombudsman shall be to protect and safeguard the rights of the inhabitants of Ecuador and to defend the rights of Ecuadorians abroad. Its responsibilities, in addition to those laid down by law, will be as follows: 1. Sponsoring, either ex officio or at the petition of the party concerned, actions for injunction, habeas corpus, access to public information, habeas data and non-compliance, civic action and complaints about the poor quality or improper provision of public or private services; 2. Initiating rights protection measures, which will be of immediate and compulsory application, and seeking legal remedies and sanctions from the appropriate authority in cases of non-compliance; 3. Investigating and pronouncing upon actions or omissions by natural or legal persons providing public services, within its sphere of competence; 4. Overseeing and encouraging respect for due process and preventing or immediately halting any form of torture or cruel, inhuman or degrading treatment.”

²¹ The National Councils for Equality have 10 members, with an equal number of representatives of the State and of civil society. See Government of Ecuador (2014), Ley Orgánica de los Consejos Nacionales para la Igualdad, Article 7, <https://www.igualdadgenero.gob.ec/wp-content/uploads/2017/03/11-Ley-Org%C3%A1nica-de-los-Consejos.pdf>.

²² Government of Ecuador (2008), Constitución, Article 156, https://www.asambleanacional.gob.ec/sites/default/files/documents/old/constitucion_de_bolsillo.pdf; Government of Ecuador (2014), Ley Orgánica de los Consejos Nacionales para la Igualdad, Article 3(1), <https://www.igualdadgenero.gob.ec/wp-content/uploads/2017/03/11-Ley-Org%C3%A1nica-de-los-Consejos.pdf>. The National Councils for Equality also have the following purposes: “2. To protect, promote, advance and ensure respect for the right of equality and non-discrimination for persons, communes, communities, peoples, nationalities and groups, within the framework of their functions and within their competence, in order to strengthen national unity in the diversity and construction of the Plurinational and Intercultural State”. See Government of Ecuador (2014), Ley Orgánica

de los Consejos Nacionales para la Igualdad, Article 3(2), <https://www.igualdadgenero.gob.ec/wp-content/uploads/2017/03/11-Ley-Org%C3%A1nica-de-los-Consejos.pdf>.

²³ Government of Ecuador (2014), Ley Orgánica de los Consejos Nacionales para la Igualdad, Article 3(3), <https://www.igualdadgenero.gob.ec/wp-content/uploads/2017/03/11-Ley-Org%C3%A1nica-de-los-Consejos.pdf>: “The National Councils for Equality shall have the following purposes: [...] 3. To participate in the formulation, mainstreaming, enforcement, follow-up and evaluation of policies in favour of persons, communes, communities, peoples, nationalities and groups, within its competence dealing with gender, ethnic, generational, intercultural, disability and human mobility issues, promoting a culture of peace to develop human capacities oriented towards a guarantee of the right to equality and non-discrimination; affirmative action measures fostering equality between persons, communes, communities, peoples, nationalities and groups; and the elimination of acts, usages, practices, customs and stereotypes deemed to be discriminatory.”

²⁴ *Ibid.*, Article 9(5) and (6) <https://www.igualdadgenero.gob.ec/wp-content/uploads/2017/03/11-Ley-Org%C3%A1nica-de-los-Consejos.pdf>.

²⁵ *Ibid.*, Article 9(3).

²⁶ Government of Ecuador (2008), Constitución, Article 436, https://www.asambleanacional.gob.ec/sites/default/files/documents/old/constitucion_de_bolsillo.pdf.

²⁷ *Ibid.*

²⁸ *Ibid.*

²⁹ *Ibid.*, Article 86.

³⁰ *Ibid.*, Articles 75 and 172. See also Government of Ecuador (2009), Código Orgánico de la Función Judicial, Article 22, <https://www.gob.ec/sites/default/files/regulations/2018-10/C%C3%B3digo%20Org%C3%A1nico%20de%20la%20Funci%C3%B3n%20Judicial.pdf>.

³¹ Government of Ecuador (2008), Constitución, Article 178, https://www.asambleanacional.gob.ec/sites/default/files/documents/old/constitucion_de_bolsillo.pdf.

³² *Ibid.*

³³ *Ibid.*, Article 191.

³⁴ *Ibid.*

³⁵ *Ibid.*, Article 195.

³⁶ The Universal Periodic Review (UPR) is “a unique process which involves a periodic review of the human rights records” of all the Member States of the United Nations. The UPR is a state-led process, under the auspices of the Human Rights Council, which “provides an opportunity for all States to declare what actions they have taken to improve the human rights situations in their countries” and to comply with their human rights obligations. See United Nations Human Rights Council (n.d.), Basic facts about the Universal Periodic Review at: <https://www.ohchr.org/SP/HRBodies/UPR/Pages/BasicFacts.aspx>.

³⁷ Recommendations designed to guarantee the independence of the judiciary in Ecuador were made by the delegations of Australia, Estonia, Greece, Israel, Pakistan, Paraguay, Slovakia, Spain, Bangladesh, Botswana, France, Costa Rica, Czechia, the Netherlands, Peru, the United States of America, Germany, Canada and Ireland. See United Nations Human Rights Council (2017), Report of the Universal Periodic Review Working Group, Ecuador, recommendations 118.36; 118.37, 118.38, 118.39, 118.40, 118.41, 118.42, 118.43, 118.44, 118.45,

118.47, 118.48, 118.54, 120.5, 120.6, 120.7, 120.8, 120.9, 120.10 and 120.12, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/186/44/PDF/G1718644.pdf?OpenElement>.

³⁸ The Office of the Ombudsman (*Defensoría del Pueblo*, DPE) has the following powers, among others: to issue mandatory and immediate measures to enforce rights, with special emphasis on cases that are widespread, systematic or of social significance, being required to seek legal remedies and sanctions from the appropriate authority in cases of non-compliance; to carry out investigations to ascertain possible violations of human rights or rights of nature, which may be carried out by means of site visits; to issue warnings, rulings, decisions, recommendations, statements, warrants, proposals or reports on actions or omissions by all the institutions of the State concerning matters relating to the protection and promotion of human and nature rights; to request precautionary measures separately or jointly with the constitutional processes of jurisdictional guarantees. See Government of Ecuador (2019), Ley Orgánica de la Defensoría del Pueblo, Article 6, <https://www.igualdadgenero.gob.ec/wp-content/uploads/2019/06/Ley-Org%C3%A1nica-de-la-Defensor%C3%ADa-del-Pueblo.pdf>.

³⁹ Government of Ecuador (2019), Ley Orgánica de la Defensoría del Pueblo, Article 6, <https://www.igualdadgenero.gob.ec/wp-content/uploads/2019/06/Ley-Org%C3%A1nica-de-la-Defensor%C3%ADa-del-Pueblo.pdf>.

⁴⁰ Government of Ecuador (2008), Constitución, Title II, Chapter 4, https://www.asambleanacional.gob.ec/sites/default/files/documents/old/constitucion_de_bolsillo.pdf.

⁴¹ *Ibid.*, Article 57. See also Government of Ecuador (2008), Ley Orgánica de Participación Ciudadana, Article 81, https://www.oas.org/juridico/pdfs/mesicic4_ecu_org6.pdf.

⁴² Government of Ecuador (2008), Constitución, Article 57, https://www.asambleanacional.gob.ec/sites/default/files/documents/old/constitucion_de_bolsillo.pdf.

⁴³ *Ibid.*

⁴⁴ According to information provided by the Ministry of Foreign Affairs and Human Mobility during the preparation of this Review, of the eight operative paragraphs of the judgment of the Inter-American Court of Human Rights of 27 June 2012, three have been complied with by Ecuador (operative paragraphs Nos. 6, 7 and 8), one has been partially complied with (operative paragraph No. 5), and three are in the process of compliance (operative paragraphs Nos. 2, 3 and 4). See Inter-American Court of Human Rights, Judgment in the case of the indigenous Kichwa people of Sarayaku vs. Ecuador (Merits and Reparations) of 27 June 2012, p. 100, https://corteidh.or.cr/docs/casos/articulos/seriec_245_ing.pdf.

⁴⁵ See Government of Ecuador (2019), Intervention by Ecuador as a country concerned at the presentation of the Report of the Special Rapporteur on the rights of indigenous peoples on her visit to Ecuador during the 42nd Ordinary Session of the Human Rights Council, https://hrcmeetings.ohchr.org/HRCSessions/HRCDocuments/31/OTH/OTH_991_68_a382a52d_ee55_4277_9418_097e0bae2c26.doc: “[...] despite the difficult economic situation, the National Government is making major efforts to guarantee the processes of inclusion and consultation, as demonstrated by the popular consultation of last March, in a canton of the province of Azuay, in which 86.79% of voters came out against mining activities in the *páramos* (high altitude grasslands/shrublands) and water sources of the Kimsacocha hydrological system.”

⁴⁶ Government of Ecuador (2021), Plan de acción para el sector minero, Article 4, https://www.enamiep.gob.ec/wp-content/uploads/downloads/2021/09/ENERGET-PLAN_DE_ACCION_PARA_EL_SECTOR_MINERO.pdf.

⁴⁷ Recommendations in this regard were made by the delegations of Belgium, Costa Rica, the Czech Republic, Estonia, France, Germany, Ireland, Italy, Mexico, the Netherlands, the Republic of Korea, Spain, Switzerland and Ukraine. See United Nations Human Rights Council (2017), Report of the Working Group on the Universal Periodic Review, Ecuador, recommendations 118.53; 118.55, 118.58, 118.62, 118.64, 118.65, 118.66, 120.4, 120.12, 120.13 and 120.15, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/186/41/PDF/G1718641.pdf?OpenElement>.

⁴⁸ Government of Ecuador (publication pending), Propuesta Teórico-conceptual para el diseño e implementación de la política integral para la promoción y protección de los derechos de las personas defensoras de los derechos humanos y de la naturaleza, p. 18.

⁴⁹ *Ibid.*, pp. 32 et seq.

⁵⁰ Government of Ecuador (2008), Constitución, Article 325, https://www.asambleanacional.gob.ec/sites/default/files/documents/old/constitucion_de_bolsillo.pdf.

⁵¹ *Ibid.*, Articles 326.4 and 328.

⁵² *Ibid.*, Articles 329 and 331.

⁵³ *Ibid.*, Article 326.7.

⁵⁴ *Ibid.*, Article 326.13.

⁵⁵ *Ibid.*, Article 326.14.

⁵⁶ *Ibid.*, Article 34.

⁵⁷ *Ibid.*

⁵⁸ The Labour Code was enacted in 2005 and most recently reformed in late 2021. See Government of Ecuador (2005), Código del Trabajo, <https://www.finanzas.gob.ec/wp-content/uploads/downloads/2015/03/C%C3%B3digo-del-Trabajo.pdf>.

⁵⁹ Government of Ecuador (2001), Ley de Seguridad Social, <https://www.gob.ec/sites/default/files/regulations/2018-10/LEY%20DE%20SEGURIDAD%20SOCIAL.pdf>.

⁶⁰ Government of Ecuador (2009), Ley Orgánica de Empresas Públicas, Title IV, <https://www.telecomunicaciones.gob.ec/wp-content/uploads/2017/05/LEY-ORGANICA-DE-EMPRESAS-PUBLICAS.pdf>.

⁶¹ ITUC (2020), Global Rights Index, https://www.ituc-csi.org/IMG/pdf/ituc_globalrightsindex_2020_en.pdf.

⁶² Government of Ecuador (2005), Código del Trabajo, Article 545, <https://www.finanzas.gob.ec/wp-content/uploads/downloads/2015/03/C%C3%B3digo-del-Trabajo.pdf>.

⁶³ *Ibid.*, Article 555 <https://www.finanzas.gob.ec/wp-content/uploads/downloads/2015/03/Código-del-Trabajo.pdf>.

⁶⁴ Government of Ecuador (2005), Ley de Mediación y Arbitraje, Article 48, https://www.gob.ec/sites/default/files/regulations/2019-09/LEY%20DE%20ARBITRAJE%20Y%20MEDIACION_21_08_2018.pdf.

⁶⁵ According to information provided by the Office of the Attorney for the Defence of the People during the preparation of the Review, these service points are located in Quito and Guayaquil.

⁶⁶ Government of Ecuador (2005), Código del Trabajo, Article 118, <https://www.finanzas.gob.ec/wp-content/uploads/downloads/2015/03/C%C3%B3digo-del-Trabajo.pdf>.

⁶⁷ Government of Ecuador (2008), Constitución, Article 326(7), https://www.asambleanacional.gob.ec/sites/default/files/documents/old/constitucion_de_bolsillo.pdf.

⁶⁸ Government of Ecuador (2005), Código del Trabajo, Title V, <https://www.finanzas.gob.ec/wp-content/uploads/downloads/2015/03/C%C3%B3digo-del-Trabajo.pdf>.

⁶⁹ *Ibid.*, Article 443 <https://www.finanzas.gob.ec/wp-content/uploads/downloads/2015/03/Código-del-Trabajo.pdf>.

⁷⁰ *Ibid.*, Articles 452 and 459.

⁷¹ See, for example, ILO Committee of Experts on the Application of Conventions and Recommendations, Case No. 2138, Report No. 327, March 2002, paragraph 547, and Case No. 2928, Report No. 371, March 2014, paragraph 309, https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:70006:0::NO::P70006_COMPLAINT_TEXT_ID,P70006_PARAGRAPH_NO:3171938,314.

⁷² Government of Ecuador (2013), Reglamento de Organizaciones Laborales, Article 10(c), https://www.gob.ec/sites/default/files/regulations/2018-10/Documento_Reglamento_de_Organizaciones_Laborales.pdf.

⁷³ Government of Ecuador (2008), Constitución, Article 46(7), https://www.asambleanacional.gob.ec/sites/default/files/documents/old/constitucion_de_bolsillo.pdf.

⁷⁴ *Ibid.*

⁷⁵ Government of Ecuador (2003), Código de la Niñez y Adolescencia, Article 81, https://www.gob.ec/sites/default/files/regulations/2018-09/Documento_C%C3%B3digo-Ni%C3%B1ez-Adolescencia.pdf.

⁷⁶ *Ibid.*, Article 82. See also Government of Ecuador (2005), Código del Trabajo, Article 138, <https://www.finanzas.gob.ec/wp-content/uploads/downloads/2015/03/C%C3%B3digo-del-Trabajo.pdf>.

⁷⁷ To be more precise, according to information provided by the MDT during the preparation of the Review, 4 937 verifications and monitoring exercises on comprehensive labour inspections were carried out in 2020 and 5 902 in 2021. Additionally, 859 targeted inspections were carried out to verify the absence of child labour in 2019 and 901 between 2020 and 2021.

⁷⁸ ILO (2014), Protocol of 2014 to the Forced Labour Convention, 1930, Article 2(e), https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID,P12100_LANG_CODE:3174672,en.

⁷⁹ Government of Ecuador (2008), Constitución, Article 29(b), https://www.asambleanacional.gob.ec/sites/default/files/documents/old/constitucion_de_bolsillo.pdf.

⁸⁰ Government of Ecuador (2014), Código Orgánico Integral Penal, Article 105, <https://biblioteca.defensoria.gob.ec/bitstream/37000/3427/1/C%C3%B3digo%20Org%C3%A1nico%20Integral%20Penal.pdf>.

⁸¹ Government of Ecuador (2005), Código del Trabajo, Article 138, <https://www.finanzas.gob.ec/wp-content/uploads/downloads/2015/03/C%C3%B3digo-del-Trabajo.pdf>.

⁸² Government of Ecuador (2008), Constitución, Article 331, https://www.asambleanacional.gob.ec/sites/default/files/documents/old/constitucion_de_bolsillo.pdf.

- ⁸³ Government of Ecuador (2018), Ley Orgánica para Prevenir y Erradicar la Violencia contra la Mujer, Articles 8, 10 and 12, https://www.igualdad.gob.ec/wp-content/uploads/downloads/2018/05/ley_prevenir_y_erradicar_violencia_mujeres.pdf.
- ⁸⁴ Government of Ecuador (2014), Código Orgánico Integral Penal, Article 166, <https://biblioteca.defensoria.gob.ec/bitstream/37000/3427/1/C%3b3digo%20Org%3a1nico%20Integral%20Penal.pdf>.
- ⁸⁵ Government of Ecuador (2017), Acuerdo Ministerial Núm. MDT-2017-0082 que expide la Normativa para la Erradicación de la Discriminación en el Ámbito Laboral, <https://www.trabajo.gob.ec/wp-content/uploads/2012/10/AM-82.-NORMATIVA-ERRADICACION-DE-LA-DISCRIMINACION-EN-EL-AMBITO-LABORAL.pdf?x42051>.
- ⁸⁶ Government of Ecuador (2020), Acuerdo Ministerial Núm. MDT-2020-244 que expide el Protocolo de Prevención y Atención de Casos de Discriminación, Acoso Laboral y Toda Forma de Violencia en los Espacios de Trabajo, <https://www.trabajo.gob.ec/wp-content/uploads/2021/04/a.-244-ACOSO.pdf>.
- ⁸⁷ Free Trade Agreement (FTA) between Chile and Ecuador (2020), Chapter 18 (Trade and Gender).
- ⁸⁸ According to the National Institute of Statistics and Census (INEC), workers have decent employment if they have a wage greater than or equal to the minimum wage and work for 40 hours a week or more (or work less than 40 hours, but do not want to work longer hours). See Government of Ecuador (2016), Metodología para la medición del empleo en el Ecuador, pp. 14-15, [https://www.ecuadorencifras.gob.ec/documentos/web-inec/EMPLEO/2016/Septiembre-2016/Nota%20metodologica%20final%20actualizada%20\(Septiembre-16\).pdf](https://www.ecuadorencifras.gob.ec/documentos/web-inec/EMPLEO/2016/Septiembre-2016/Nota%20metodologica%20final%20actualizada%20(Septiembre-16).pdf).
- ⁸⁹ Government of Ecuador (2020), Acuerdo Ministerial Núm. MDT-2020-136 que expide las Directrices que Regulan el Contrato por Obra o Servicio Determinado dentro del Giro del Negocio, <https://www.trabajo.gob.ec/wp-content/uploads/2018/01/AM-136-GIRO-DEL-NEGOCIO-v29.7-signed-ok.pdf?x42051>.
- ⁹⁰ FTA between Chile and Ecuador (2020), Chapter 17 (Comercio y Medio Ambiente), Article 17.4 (Acuerdos Multilaterales de Medio Ambiente).
- ⁹¹ Government of Ecuador (2008), Constitución, Article 14, https://www.asambleanacional.gob.ec/sites/default/files/documents/old/constitucion_de_bolsillo.pdf.
- ⁹² *Ibid.*, Chapter Seven “Derechos de la naturaleza”.
- ⁹³ *Ibid.*, Chapter Two: “Biodiversity and natural resources”.
- ⁹⁴ *Ibid.*, Article 396.
- ⁹⁵ Government of Ecuador (2017), Código Orgánico del Ambiente, https://www.ambiente.gob.ec/wp-content/uploads/downloads/2018/01/CODIGO_ORGANICO_AMBIENTE.pdf.
- ⁹⁶ *Ibid.*, Article 179; Government of Ecuador (2019), Reglamento al Código Orgánico del Ambiente, Articles 431-432, https://www.gob.ec/sites/default/files/regulations/2019-09/Documento_RCOA%20RO%20507.pdf.
- ⁹⁷ Government of Ecuador (2017), Código Orgánico del Ambiente, Articles 23 and 24, https://www.ambiente.gob.ec/wp-content/uploads/downloads/2018/01/CODIGO_ORGANICO_AMBIENTE.pdf.
- ⁹⁸ Government of Ecuador (2014), Reglamento Ambiental para Actividades Mineras, <https://www.ambiente.gob.ec/wp->

[content/uploads/downloads/2015/02/REGLAMENTO_AMBIENTAL_DE_ACTIVIDADES_MINERAS_MINISTERIO_AMBIENTE.pdf](#).

⁹⁹ Government of Ecuador (2020), Reglamento Ambiental de Operaciones Hidrocarburíferas en el Ecuador, https://www.gob.ec/sites/default/files/regulations/2020-05/Documento_Reglamento-Ambiental-Operaciones-Hidrocarburi%CC%81feras-Ecuador.pdf.

¹⁰⁰ Government of Ecuador (2008), Constitución, Article 399, https://www.asambleanacional.gob.ec/sites/default/files/documents/old/constitucion_de_bolsillo.pdf.

¹⁰¹ Government of Ecuador (2017), Código Orgánico del Ambiente, Book One, Title I “Decentralised National Environmental Management System”, https://www.ambiente.gob.ec/wp-content/uploads/downloads/2018/01/CODIGO_ORGANICO_AMBIENTE.pdf.

¹⁰² *Ibid.*, Articles 3, 23 and 25 to 28.

¹⁰³ *Ibid.*, Articles 23 and 24.

¹⁰⁴ Government of Ecuador (2020), Decreto nro. 1007: Fusiona el Ministerio del Ambiente y la Secretaría del Agua en una sola entidad denominada Ministerio del Ambiente y Agua, <https://www.registroficial.gob.ec/index.php/registro-oficial-web/publicaciones/suplementos/item/12857-segundo-suplemento-al-registro-oficial-no-194>.

¹⁰⁵ Government of Ecuador (2017), Código Orgánico del Ambiente, Articles 23 and 24, https://www.ambiente.gob.ec/wp-content/uploads/downloads/2018/01/CODIGO_ORGANICO_AMBIENTE.pdf.

¹⁰⁶ *Ibid.*, Article 19 https://www.ambiente.gob.ec/wp-content/uploads/downloads/2018/01/CODIGO_ORGANICO_AMBIENTE.pdf.

¹⁰⁷ Government of Ecuador (2015), Código Orgánico General de Procesos, Article 38, <https://www.funcionjudicial.gob.ec/pdf/CODIGO%20ORGANICO%20GENERAL%20DE%20PROCESOS.pdf>.

¹⁰⁸ *Ibid.* https://www.funcionjudicial.gob.ec/pdf/CODIGO_ORGANICO_GENERAL_DE_PROCESOS.pdf.

¹⁰⁹ Government of Ecuador (2008), Constitución, Article 396, https://www.asambleanacional.gob.ec/sites/default/files/documents/old/constitucion_de_bolsillo.pdf.

¹¹⁰ Government of Ecuador (2021), Plan de acción para el sector minero, Article 3, https://www.enamiep.gob.ec/wp-content/uploads/downloads/2021/09/ENERGET-PLAN_DE_ACCION_PARA_EL_SECTOR_MINERO.pdf.

¹¹¹ *Ibid.*, Article 6.

¹¹² In 2018, total emissions of greenhouse gases (GHGs) in Ecuador amounted to 65 680 kt of CO₂ equivalent. See World Bank (n.d.), Total greenhouse gas emissions (kt of CO₂ equivalent) – Ecuador, <https://data.worldbank.org/indicator/EN.ATM.GHGT.KT.CE?end=2018&locations=EC&start=1970&view=chart>.

¹¹³ Government of Ecuador (2008), Constitución, Article 414, https://www.asambleanacional.gob.ec/sites/default/files/documents/old/constitucion_de_bolsillo.pdf.

¹¹⁴ Government of Ecuador (2021), Acuerdo Ministerial Núm. MAAE-2021-018 que expide el Programa Ecuador Carbono Cero, Article 2, <https://www.ambiente.gob.ec/wp-content/uploads/downloads/2021/05/018-Carbono-0-signed.pdf>.

¹¹⁵ According to information provided by the MAATE during the preparation of the Review, the Ecuador Zero Carbon Programme (*Programa Ecuador Carbono Cero*, PECC) establishes an offsetting scheme based on a tariff model that does not promote dealing in or appropriation or disposal of environmental services, or the creation of a carbon market based on bonds from ecosystem services.

¹¹⁶ Government of Ecuador (2021), Acuerdo Ministerial Núm. MAAE-2021-018 que expide el Programa Ecuador Carbono Cero, Title III, <https://www.ambiente.gob.ec/wp-content/uploads/downloads/2021/05/018-Carbono-0-signed.pdf>.

¹¹⁷ According to information provided by the Anti-Corruption Policy Secretariat (*Secretaría de Política Pública Anticorrupción*, SPPA) during the preparation of this Review, this data was included in a communication sent on 23 September 2021 by Luis Verdesoto – Minister for Institutional Governance and Combating Corruption – to Ecuador’s National Assembly, providing a breakdown of the methodology used to estimate data using national and international sources.

¹¹⁸ Government of Ecuador (2008), Constitución, Article 3, paragraph 8, https://www.asambleanacional.gob.ec/sites/default/files/documents/old/constitucion_de_bolsillo.pdf.

¹¹⁹ *Ibid.*, Article 83, paragraph 8.

¹²⁰ Government of Ecuador (2014), Código Orgánico Integral Penal, Section Three “Crimes against the efficiency of public administration”, <https://biblioteca.defensoria.gob.ec/bitstream/37000/3427/1/C%3%b3digo%20Org%3%a1nico%20Integral%20Penal.pdf>.

¹²¹ *Ibid.*, Article 280 <https://biblioteca.defensoria.gob.ec/bitstream/37000/3427/1/C%3%b3digo%20Org%3%a1nico%20Integral%20Penal.pdf>.

¹²² *Ibid.*, Article 281.

¹²³ *Ibid.*, Article 285 <https://biblioteca.defensoria.gob.ec/bitstream/37000/3427/1/C%3%b3digo%20Org%3%a1nico%20Integral%20Penal.pdf>.

¹²⁴ *Ibid.*, Article 280 <https://biblioteca.defensoria.gob.ec/bitstream/37000/3427/1/C%3%b3digo%20Org%3%a1nico%20Integral%20Penal.pdf>.

¹²⁵ Government of Ecuador (2021), Lineamientos Generales de la Política Nacional Anticorrupción, paragraph 16, <https://www.presidencia.gob.ec/wp-content/uploads/2022/01/Lineamientos-de-la-Poli%CC%81tica-Nacional-Anticorrupcio%CC%81n-12.11.21-7.pdf>.

¹²⁶ The Transparency and Social Control Branch is responsible, in particular, for monitoring public-sector entities and bodies, and natural or legal persons in the private sector that provide services or perform activities in the public interest, ensuring that they do so responsibly, transparently and equitably; promoting and incentivising citizen participation; and preventing and combatting corruption. As such, it has been tasked with formulating policy on transparency, control, accountability, promoting citizen participation and preventing and combatting corruption.

See Government of Ecuador (2008), Constitución, Articles 204 and 206, https://www.asambleanacional.gob.ec/sites/default/files/documents/old/constitucion_de_bolsillo.pdf.

¹²⁷ Over the past decade, responsibility for combatting corruption has been assigned to several different entities under the purview of Ecuador’s Presidency. Before 2008, the National Anti-Corruption Secretariat, created in 2007, oversaw the Government’s anti-corruption policy, but also developed investigation strategies and notified the competent authorities about acts of corruption. Under the 2008 Constitution, which created the Council for Citizen Participation and Social Control (*Consejo de Participación Ciudadana y Control Social*, CPCCS), officials from the National Anti-Corruption Secretariat

were transferred. In 2008, the National Secretariat for Management Transparency (*Secretaría Nacional de Transparencia de Gestión*) was established. Its role was to investigate and report acts of corruption by public servants, and to strengthen coordination and cooperation between all entities involved in the investigation, prosecution and punishment of acts of corruption. However, in 2013, the National Secretariat for Management Transparency was absorbed by the National Secretariat of Public Administration (*Secretaría Nacional de la Administración Pública*). Later, in 2017, the National Secretariat of Public Administration was dissolved, and its areas of responsibility were transferred to various government entities. However, no provision was made for powers related to the fight against corruption. In 2019, the Anti-Corruption Secretariat (*Secretaría Anticorrupción*) was established, with responsibility for developing policies and initiatives in the fight against corruption, monitoring actions against corruption in the public administration and strengthening cooperation between government institutions on anti-corruption matters. However, a little over a year after it was created, the Anti-Corruption Secretariat was dismantled following a request from the FGE submitted in May 2020 to the Presidency. In 2022, the Anti-Corruption Policy Secretariat (SPPA) was established under the Presidency of the Republic. See OECD (2021), *Public Integrity in Ecuador: Towards a National Integrity System*, pp. 46-47, <https://doi.org/10.1787/9623672c-en>; Government of Ecuador (2008), Decreto Ejecutivo Nro. 1511, Article 2, http://www.oas.org/juridico/pdfs/mesicic4_ecu_dec.pdf; Government of Ecuador (2017), Decreto Ejecutivo Nro. 5, Articles 1 and 2, <https://www.informatica-juridica.com/decreto-ejecutivo/decreto-ejecutivo-no-5-de-24-de-mayo-de-2019/#:~:text=Ecuador.Jos%C3%A9%20Cuervo-Decreto%20Ejecutivo%20n%C2%BA%205%20de%2024%20de%20mayo%20de%202017,gesti%C3%B3n%20de%20la%20implementaci%C3%B3n%20del>; Government of Ecuador (2019), Decreto Ejecutivo Nro. 665, Article 1, <https://www.registroficial.gob.ec/index.php/registro-oficial-web/publicaciones/suplementos/item/11406-suplemento-al-registro-oficial-no-440>; Government of Ecuador (2020), Decreto Ejecutivo Nro. 1065, Article 1, https://www.presidencia.gob.ec/wp-content/uploads/2020/06/a2_Decreto_Ejecutivo_1065_mayo_2020.pdf; Government of Ecuador, Decreto Ejecutivo Nro. 412, Article 1, <https://asobanca.org.ec/wp-content/uploads/2022/05/Decreto-Ejecutivo-Nro.-412-Creacion-Secretaria-Anticorrupcion.pdf>.

¹²⁸ The CPCCS also promotes and fosters public participation through social control mechanisms such as Citizen Oversight (*Veeduría Ciudadana*). Through this mechanism, citizens monitor, supervise and control the government entities, as well as any private entities or individuals managing public resources or operating in the public interest.

¹²⁹ Government of Ecuador (2021), *Ley Orgánica Reformativa del Código Orgánico Integral Penal en Materia de Corrupción*, Article 14, <https://www.registroficial.gob.ec/index.php/registro-oficial-web/publicaciones/suplementos/item/14374-segundo-suplemento-al-registro-oficial-no-392>.

¹³⁰ Government of Ecuador (2008), *Constitución*, Article 215, paragraph 8, https://www.asambleanacional.gob.ec/sites/default/files/documents/old/constitucion_de_bolsillo.pdf; Government of Ecuador (2019), *Ley Orgánica de la Defensoría del Pueblo*, Articles 1 and 2, <https://www.igualdadgenero.gob.ec/wp-content/uploads/2019/06/Ley-Org%C3%A1nica-de-la-Defensor%C3%ADa-del-Pueblo.pdf>.

¹³¹ According to the National Anti-Corruption Strategy, the Commission will consist of the following members: President of the Republic, President of the National Assembly, President of the Judicial Branch, President of the Electoral Branch, President of the Transparency and Social Control Branch, Comptroller General of the State, Attorney-General of the State, the Ombudsman, the President of the Association of Municipalities of Ecuador and the President of the Consortium of Provincial Autonomous Governments. See Government of Ecuador (2022), *Estrategia Nacional Anticorrupción*, Section 5.2,

https://www.presidencia.gob.ec/wp-content/uploads/2022/07/Estrategia-Nacional-Anticorrupcio%CC%81n-11-de-julio-2022_f.pdf.

¹³² According to the National Anti-Corruption Strategy, observers of the Commission will be the Director of the National Government Procurement Service, the Director of the Financial and Economic Analysis Unit, the Director of the Internal Revenue Service, Superintendents, and representatives of civil society, universities, the media, and employer and workers' associations. See Government of Ecuador (2022), Estrategia Nacional Anticorrupción, Section 5.2, https://www.presidencia.gob.ec/wp-content/uploads/2022/07/Estrategia-Nacional-Anticorrupcio%CC%81n-11-de-julio-2022_f.pdf.

¹³³ Government of Ecuador (1999), Ley de Compañías, Article 20, https://www.gob.ec/sites/default/files/regulations/2020-03/Documento_LEY-COMPANIAS.pdf.

¹³⁴ Government of Ecuador (2021), Ley Orgánica Reformativa del Código Orgánico Integral Penal en Materia de Corrupción, Article 15, <https://www.registroficial.gob.ec/index.php/registro-oficial-web/publicaciones/suplementos/item/14374-segundo-suplemento-al-registro-oficial-no-392>.

¹³⁵ *Ibid.*.

¹³⁶ Directors, managers, administrators, chief executives, shareholders, legal representatives, proxies, advisers or employees in senior positions may be punished for acts of corruption in the private sector. See Government of Ecuador (2014) Comprehensive Criminal Code, Article 320.1, <https://biblioteca.defensoria.gob.ec/bitstream/37000/3427/1/C%c3%b3digo%20Org%c3%a1nico%20Integral%20Penal.pdf>.

¹³⁷ Government of Ecuador (2021), Ley Orgánica Reformativa del Código Orgánico Integral Penal en Materia de Corrupción, Article 15, <https://www.registroficial.gob.ec/index.php/registro-oficial-web/publicaciones/suplementos/item/14374-segundo-suplemento-al-registro-oficial-no-392>.

¹³⁸ Government of Ecuador (2014), Código Orgánico Integral Penal, Article 320, paragraph 1, <https://biblioteca.defensoria.gob.ec/bitstream/37000/3427/1/C%c3%b3digo%20Org%c3%a1nico%20Integral%20Penal.pdf>.

¹³⁹ *Ibid.*, Article 45, paragraph 7.

¹⁴⁰ *Ibid.*, Article 49.

¹⁴¹ *Ibid.*

¹⁴² Government of Ecuador (2008), Constitución, Article 208, paragraph 7, https://www.asambleanacional.gob.ec/sites/default/files/documents/old/constitucion_de_bolsillo.pdf.

¹⁴³ *Ibid.*, Article 198.

¹⁴⁴ Government of Ecuador (2014) Código Orgánico Integral Penal, Article 422.1, <https://biblioteca.defensoria.gob.ec/bitstream/37000/3427/1/C%c3%b3digo%20Org%c3%a1nico%20Integral%20Penal.pdf>.

¹⁴⁵ *Ibid.*, Article 430.2 <https://biblioteca.defensoria.gob.ec/bitstream/37000/3427/1/C%c3%b3digoOrg%c3%a1nicoIntegralPenal.pdf>.

¹⁴⁶ *Ibid.*, Article 430.1.

¹⁴⁷ Government of Ecuador (2008), Ley Orgánica del Sistema Nacional de Contratación Pública, Article 10, <https://portal.compraspublicas.gob.ec/sercop/wp-content/uploads/2018/10/LOSNCPUltima.pdf>.

¹⁴⁸ *Ibid.*, Article 9.

¹⁴⁹ *Ibid.*, Article 23.

¹⁵⁰ *Ibid.*

¹⁵¹ Corporación Eléctrica del Ecuador (CELEC); Empresa Pública del Agua; Comunica EP; Corporación Nacional de Electricidad (CNEL); Casa para Todos; Astilleros Navales Ecuatorianos (ASTINAVE); Petroecuador EP; Empresa Pública Petrolera Ecuatoriana (EP FLOPEC); Servicios Postales del Ecuador (SPE); Empresa Nacional Minera (ENAMI EP); Corporación Nacional de Telecomunicaciones (CNT); Empresa Pública Santa Bárbara.

¹⁵² Petroecuador took over Petroamazonas for all purposes in January 2021 under Executive Decree No. 1221. See Government of Ecuador (2021), Decreto Ejecutivo Nro. 1221, https://www.eppetroecuador.ec/wp-content/uploads/downloads/2021/01/Decreto_Ejecutivo_No._1221_20210007160628_20210007160632.pdf.

¹⁵³ See, for example, Government of Ecuador (2019), Examen especial al Proyecto Minero Llurimagua, <https://www.contraloria.gob.ec/WFDescarga.aspx?id=57938&tipo=inf>.

¹⁵⁴ This is also the case of the UNGPs, which provide that “States should take additional steps to protect against human rights abuses by business enterprises that are owned or controlled by the State, or that receive substantial support and services from state agencies such as export credit agencies and official investment insurance or guarantee agencies, including, where appropriate, by requiring human rights due diligence.”

See United Nations Guiding Principles on Business and Human Rights, Principle 4, https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf.

¹⁵⁵ It should be noted that this section does not assess Ecuador’s implementation of the OECD Guidelines on the Corporate Governance of State-Owned Enterprises, nor the OECD Guidelines on Anti-Corruption and Integrity in State-Owned Enterprises, but seeks to highlight the relevance of their recommendations with respect to achieving RBC objectives.

¹⁵⁶ This includes information on any material foreseeable risks incurred in their operations, particularly financial and operational risks, but also human rights, labour, environment, corruption and tax-related risks, as well as the measures taken to manage such risks.

¹⁵⁷ The OECD Guidelines on Anti-Corruption and Integrity in State-Owned Enterprises recommend, to this effect, that government authorities ensure clarity in the legal and regulatory framework regarding the operation and accountability of State-Owned Enterprises (SOEs) and in their expectations for anti-corruption and integrity. They also recommend that governments encourage SOEs to develop a risk management system and integrity mechanisms – that is, internal controls and ethics and compliance measures – to prevent, detect and mitigate corruption-related risks. These integrity mechanisms should work to ensure that SOEs cannot seek or accept exemptions not previously contemplated related to human rights, environment, health, safety, labour, taxation and financial incentives. Moreover, they recommend that governments establish accountability and review mechanisms for SOEs and actively seek to improve public knowledge about SOEs. See OECD (2019), OECD Guidelines on Anti-Corruption and Integrity in State-Owned Enterprises, pp. 22, 24, 28, 31 and 33, <https://www.oecd.org/daf/ca/Guidelines-Anti-Corruption-Integrity-State-Owned-Enterprises-ES.pdf>.

¹⁵⁸ Government of Ecuador (2008), Constitución, Article 315, https://www.asambleanacional.gob.ec/sites/default/files/documents/old/constitucion_de_bolsillo.pdf.

¹⁵⁹ *Ibid.*

- ¹⁶⁰ Government of Ecuador (2017), Ley Orgánica de Empresas Públicas, Article 1, <https://www.telecomunicaciones.gob.ec/wp-content/uploads/2017/05/LEY-ORGANICA-DE-EMPRESAS-PUBLICAS.pdf>.
- ¹⁶¹ Government of Ecuador (2017), Ley Orgánica de Empresas Públicas, Article 1, <https://www.telecomunicaciones.gob.ec/wp-content/uploads/2017/05/LEY-ORGANICA-DE-EMPRESAS-PUBLICAS.pdf>.
- ¹⁶² *Ibid.*, Article 4.
- ¹⁶³ Government of Ecuador (2020), Decreto Ejecutivo Nro. 1051, <https://www.emco.gob.ec/Emco2/wp-content/uploads/2021/03/1Decreto-Presidencial-No.-1051-REORGANIZACION-EMCOEP.pdf>.
- ¹⁶⁴ *Ibid.*.
- ¹⁶⁵ *Ibid.*.
- ¹⁶⁶ Government of Ecuador (2017), Ley Orgánica de Empresas Públicas, Article 47, <https://www.telecomunicaciones.gob.ec/wp-content/uploads/2017/05/LEY-ORGANICA-DE-EMPRESAS-PUBLICAS.pdf>.
- ¹⁶⁷ See, for example, Government of Ecuador (2020), Auditoría de gestión al cumplimiento de la planificación estratégica, planes operativos, metas y objetivos institucionales en la Empresa Nacional Minera ENAMI EP y entidades relacionadas, por el período comprendido entre el 1 de enero de 2018 y el 31 de diciembre de 2020, <https://www.contraloria.gob.ec/WFDescarga.aspx?id=67221&tipo=inf>.
- ¹⁶⁸ Government of Ecuador (2017), Ley Orgánica de Empresas Públicas, Article 47, <https://www.telecomunicaciones.gob.ec/wp-content/uploads/2017/05/LEY-ORGANICA-DE-EMPRESAS-PUBLICAS.pdf>; Government of Ecuador (2009), Law on the Council for Citizen Participation and Social Control, Article 10.7, <https://www.epn.edu.ec/wp-content/uploads/2018/08/Ley-Org%C3%A1nica-del-Consejo-de-Participaci%C3%B3n-Ciudadana-y-Control-Social.pdf>.
- ¹⁶⁹ Government of Ecuador (2008), Constitución, Article 315, https://www.asambleanacional.gob.ec/sites/default/files/documents/old/constitucion_de_bolsillo.pdf.
- ¹⁷⁰ Government of Ecuador (2017), Ley Orgánica de Empresas Públicas, Article 2, <https://www.telecomunicaciones.gob.ec/wp-content/uploads/2017/05/LEY-ORGANICA-DE-EMPRESAS-PUBLICAS.pdf>.
- ¹⁷¹ *Ibid.*
- ¹⁷² *Ibid.*, Article 3.
- ¹⁷³ *Ibid.*, Third General Provision.
- ¹⁷⁴ *Ibid.*, Article 9.
- ¹⁷⁵ Government of Ecuador (2019), Ley Orgánica de Simplificación y Progresividad Tributaria, Article 13, https://www.gob.ec/sites/default/files/regulations/2021-01/Ley%20Org%C3%A1nica%20de%20Simplificaci%C3%B3n%20y%20Progresividad%20Tributaria_1.pdf; Government of Ecuador (2020), Reglamento a la Ley Orgánica de Simplificación y Progresividad Tributaria, Article 18, <https://www.registroficial.gob.ec/index.php/registro-oficial-web/publicaciones/suplementos/item/13287-segundo-suplemento-al-registro-oficial-no-260>.
- ¹⁷⁶ Government of Ecuador (2019), Ley Orgánica de Simplificación y Progresividad Tributaria, Article 28, <https://www.gob.ec/sites/default/files/regulations/2021->

[01/Ley%20Org%C3%A1nica%20de%20Simplificaci%C3%B3n%20y%20Progresividad%20Tributaria_1.pdf](#).

¹⁷⁷ Government of Ecuador (2019), Ley Orgánica de Simplificación y Progresividad Tributaria, Article 14, https://www.gob.ec/sites/default/files/regulations/2021-01/Ley%20Org%C3%A1nica%20de%20Simplificaci%C3%B3n%20y%20Progresividad%20Tributaria_1.pdf.

¹⁷⁸ *Ibid.*, Preamble.

¹⁷⁹ According to information provided by the Government during the preparation of this Review, a large number of grassroots and solidarity economy organisations with social responsibility certifications have, in recent years, participated in Pro Ecuador's international promotion events and have benefited from its export advisory services and its cooperation and training programmes.

¹⁸⁰ Investment can be promoted through image building, aimed at promoting the positive image of a country and branding it as a profitable investment destination, and generating investment, which consists of marketing techniques aimed at specific industries, activities and markets. See Novik, A., and Crombrughe A. (2018),

Towards an International Framework for Investment Facilitation, OECD Investment Insights., p. 3, <https://www.oecd.org/investment/Towards-an-international-framework-for-investment-facilitation.pdf>; Volpe Martincus, Ch.; Sztajerowska, M. (2019), How to solve the Investment Promotion Puzzle: A Mapping of Investment Promotion in Latin America & the Caribbean and OECD countries, p. 59, <http://dx.doi.org/10.18235/0001767>.

¹⁸¹ Investment facilitation activities include investor servicing, which aims to provide support to prospective investors in order to facilitate their establishment, but also aftercare, which consists of assisting established investors with post-establishment challenges so as to retain them and encourage their expansion. See Novik, A., and A. Crombrughe (2018), Towards an International Framework for Investment Facilitation, OECD Investment Insights, pp. 3 and 4, <https://www.oecd.org/investment/Towards-an-international-framework-for-investment-facilitation.pdf>.

¹⁸² Government of Ecuador (2018), Decreto Ejecutivo Nro. 252, <https://www.registroficial.gob.ec/index.php/registro-oficial-web/publicaciones/suplementos/item/9998-suplemento-al-registro-oficial-no-158>.

¹⁸³ *Ibid.*

¹⁸⁴ Government of Ecuador (2021), Decreto Ejecutivo Nro. 68, Article 1, <https://levelup.ec/wp-content/uploads/2021/06/Decreto-Ejecutivo-No.-68.pdf>.

¹⁸⁵ Government of Ecuador (2021), Decreto Ejecutivo Nro. 1295, Article 1, http://esacc.corteconstitucional.gob.ec/storage/api/v1/10_DWL_FL/eyJjYXJwZXRhIjoicm8iLCJ1dWlkjoiYjg0NGNiZWItNjc2MC00ODcwLTg0YzQtN2lyNDMwZTcxZTEwLnBkZiJ9.

¹⁸⁶ *Ibid.*

¹⁸⁷ *Ibid.*

¹⁸⁸ Government of Ecuador (2018), Ley Orgánica para el Fomento Productivo, Atracción de Inversiones, Generación de Empleo, y Estabilidad y Equilibrio Fiscal, https://www.gob.ec/sites/default/files/regulations/2018-09/Documento_Ley-Org%C3%A1nica-Fomento-Productivo-Atracci%C3%B3n-Inversiones.pdf.

¹⁸⁹ *Ibid.*, Article 26.

¹⁹⁰ It should be noted that, as far as investment treaties are concerned, other kinds of provisions can also potentially have a bearing on RBC. This is particularly the case for provisions requiring that investments be made in accordance with domestic law in order to benefit from treaty coverage. General protections, such as provisions on granting “fair and equitable treatment” to covered foreign investors, can affect policy space to regulate business. However, as these provisions do not expressly refer to sustainability issues, such as respect for human rights, the promotion of labour standards, the protection of the environment or the fight against corruption, or contain an express mention of RBC or CSR, they are not included in the analysis carried out in the present Review. For a discussion of these provisions, see Gaukrodger, D. (2021), Business responsibilities and investment treaties, OECD Working Papers on International Investment, No. 2021/02, OECD Publishing, Paris, <https://doi.org/10.1787/4a6f4f17-en>; Gaukrodger, D. (2017), Addressing the balance of interests in investment treaties: The limitation of fair and equitable treatment provisions to the minimum standard of treatment under customary international law, OECD Working Papers on International Investment, No. 2017/03, <https://www.oecd-ilibrary.org/docserver/0a62034b-en.pdf?expires=1614962636&id=id&accname=ocid84004878&checksum=99194E7B92808FC3B402529A24670527>; Dolzer, R. (2005), The Impact of International Investment Treaties on Domestic Administrative Law, New York University Journal of International Law and Policy, Vol. 37, No. 4, pp. 953-971, <https://www.iilj.org/wp-content/uploads/2016/08/Dolzer-The-Impact-of-International-Investment-Treaties-on-Domestic-Administrative-Law-2005.pdf>; and Pohl, J. (2018), Societal benefits and costs of International Investment Agreements: A critical review of aspects and available empirical evidence, OECD Working Papers on International Investment, No. 2018/01, OECD Publishing, Paris, <https://doi.org/10.1787/e5f85c3d-en>.

¹⁹¹ According to information provided by the Ministry of Foreign Affairs and Human Mobility (*Ministerio de Relaciones Exteriores y Movilidad Humana*, MREMH) during the preparation of this Review, Ecuador intends to become a full member of the Pacific Alliance, to begin negotiations on trade agreements with China, Costa Rica, South Korea and the Dominican Republic, and is negotiating a bilateral investment treaty with Spain. See Government of Ecuador (2022), Video of the President of the Republic of Ecuador showing Ecuador’s intervention at the Plenary Session of the XVI Summit of Presidents of the Pacific Alliance, <https://www.youtube.com/watch?v=HRcD30QMdm0>.

¹⁹² Cuba; MERCOSUR; El Salvador; Nicaragua.

¹⁹³ Cartagena Agreement, Articles 128 and 129.

¹⁹⁴ Ecuador-Guatemala PSA, Article 58.

¹⁹⁵ *Ibid.*, Article 61.

¹⁹⁶ *Ibid.*

¹⁹⁷ MERCOSUR; Trade Agreement between Ecuador and Chile (2008), Article 15.1; Ecuador-Guatemala PSA, Article 4.

¹⁹⁸ Multiparty Trade Agreements (MTA) between the EU and Colombia, Peru and Ecuador (2012); FTA between Ecuador and the EFTA States (2018); FTA between Colombia, Ecuador, Peru and the United Kingdom (2019). The FTA with the UK states that the provisions of the 2012 EU-Colombia/Peru/Ecuador MTA will continue to apply *mutatis mutandis* between the signatories after the UK’s exit from the European Union.

¹⁹⁹ 2012 EU-Colombia/Peru/Ecuador MTA, Title IX (Trade and Sustainable Development), Article 268 (Right to regulate and Levels of Protection).

²⁰⁰ *Ibid.*, Article 277 (Upholding Levels of Protection).

²⁰¹ *Ibid.*, Article 269 (Multilateral Labour Standards and Agreements).

²⁰² *Ibid.*, Article 270 (Multilateral Environmental Standards and Agreements).

- ²⁰³ 2012 EU-Colombia/Peru/Ecuador MTA, Title IX (Trade and Sustainable Development), Article 272 (Biological Diversity).
- ²⁰⁴ *Ibid.*, Article 274 (Trade in Forest Products).
- ²⁰⁵ *Ibid.*, Article 273 (Trade in Forest Products).
- ²⁰⁶ *Ibid.*, Article 275 (Climate Change).
- ²⁰⁷ *Ibid.*, Article 280 (Institutional and Monitoring Mechanism), paragraphs 6 and 7.
- ²⁰⁸ *Ibid.*, Article 280 (Institutional and Monitoring Mechanism).
- ²⁰⁹ *Ibid.*, Article 282 (Dialogue with Civil Society).
- ²¹⁰ *Ibid.*, Article 283 (Governmental Consultations).
- ²¹¹ *Ibid.*, Article 284 (Group of Experts).
- ²¹² *Ibid.*, Article 285 (Report of the Group of Experts).
- ²¹³ *Ibid.*, Article 286 (Cooperation on Trade and Sustainable Development).
- ²¹⁴ V Trade and Sustainable Development Sub-Committee Meeting, December 2018, Joint Minutes, p. 15, <https://circabc.europa.eu/ui/group/09242a36-a438-40fd-a7af-fe32e36cbd0e/library/7de825d6-bd62-465d-af30-a3c42b6d7244/details>.
- ²¹⁵ VI Trade and Sustainable Development Sub-Committee Meeting, October 2019, Joint Minutes, p. 18, <https://circabc.europa.eu/ui/group/09242a36-a438-40fd-a7af-fe32e36cbd0e/library/83b3e95b-e7eb-45cb-8238-f0b9addccd56/details>.
- ²¹⁶ VIII Trade and Sustainable Development Sub-Committee Meeting, November 2020, Joint Minutes, p. 23, <https://circabc.europa.eu/ui/group/09242a36-a438-40fd-a7af-fe32e36cbd0e/library/ae9fc229-9d99-443e-a172-7515393f64e6/details>.
- ²¹⁷ *Ibid.*, p. 3 <https://circabc.europa.eu/ui/group/09242a36-a438-40fd-a7af-fe32e36cbd0e/library/ae9fc229-9d99-443e-a172-7515393f64e6/details>.
- ²¹⁸ *Ibid.*
- ²¹⁹ *Ibid.*
- ²²⁰ *Ibid.*
- ²²¹ EU-Colombia/Peru/Ecuador MTA (2012), Title IX (Trade and Sustainable Development), Article 271 (Trade Favouring Sustainable Development).
- ²²² Ecuador-EFTA FTA (2018), Article 8.4.
- ²²³ *Ibid.*, Article 8.5.
- ²²⁴ *Ibid.*, Article 8.6.
- ²²⁵ *Ibid.*, Article 8.3.
- ²²⁶ *Ibid.*, Article 8.5.5.
- ²²⁷ *Ibid.*, Article 8.11.
- ²²⁸ Ecuador-EFTA FTA (2018), Article 8.8.
- ²²⁹ *Ibid.*, Article 8.9.
- ²³⁰ *Ibid.*, Article 8.10.

- ²³¹ *Ibid.*, Article 8.7.
- ²³² Ecuador-Chile FTA (2020), Chapter 16 (Trade and Labour).
- ²³³ *Ibid.*, Chapter 17 (Trade and Environment).
- ²³⁴ *Ibid.*, Chapter 20 (Transparency), Section B (Anti-Corruption).
- ²³⁵ *Ibid.*, Chapter 18 (Trade and Gender).
- ²³⁶ *Ibid.*, Chapter 16 (Trade and Labour), Article 16.5 (No derogation).
- ²³⁷ *Ibid.*, Chapter 16 (Trade and Labour), Article 16.3 (Shared Commitments) and Article 16.4 (Labour Rights).
- ²³⁸ *Ibid.*, Chapter 16 (Trade and Labour), Article 16.3 (Shared Commitments), paragraph 2.
- ²³⁹ *Ibid.*, Chapter 16 (Trade and Labour), Article 16.4 (Labour Rights).
- ²⁴⁰ *Ibid.*
- ²⁴¹ *Ibid.*, Chapter 16 (Trade and Labour), Article 16.3 (Shared Commitments), paragraph 5.
- ²⁴² *Ibid.*, Chapter 16 (Trade and Labour), Article 16.7 (Forced Labour).
- ²⁴³ *Ibid.*, Chapter 17 (Trade and Environment), Article 17.3 (General Commitments).
- ²⁴⁴ *Ibid.*, Chapter 17 (Trade and Environment), Article 17.4 (Multilateral Agreements on the Environment).
- ²⁴⁵ *Ibid.*, Chapter 17 (Trade and Environment), Article 17.10 (Trade and Biodiversity), paragraph 6.
- ²⁴⁶ *Ibid.*, Chapter 17 (Trade and Environment), Article 17.17 (Trade and Climate change), paragraphs 3 and 4.
- ²⁴⁷ *Ibid.*, Chapter 17 (Trade and Environment), Article 17.14 (Sustainable Agriculture), paragraph 3.
- ²⁴⁸ *Ibid.*, Chapter 17 (Trade and Environment), Article 17.11 (Indigenous and Local Communities), paragraph 2.
- ²⁴⁹ *Ibid.*, Chapter 20 (Transparency), Section C (Anti-Corruption), Article 20.8 (Measures to Combat Corruption).
- ²⁵⁰ *Ibid.*
- ²⁵¹ *Ibid.*, Chapter 20 (Transparency), Section C (Anti-Corruption), Article 20.9 (Promotion of Public Officials' Integrity).
- ²⁵² *Ibid.*, Chapter 20 (Transparency), Section C (Anti-Corruption), Article 20.11 (Participation of the Private Sector and Civil Society).
- ²⁵³ *Ibid.*, Chapter 18 (Trade and Gender), Article 18.1 (General Provisions).
- ²⁵⁴ *Ibid.*, Chapter 18 (Trade and Gender), Article 18.3 (International Agreements).
- ²⁵⁵ *Ibid.*, Chapter 18 (Trade and Gender), Article 18.1 (General Provisions).
- ²⁵⁶ *Ibid.*, Chapter 18 (Trade and Gender), Article 18.4 (Cooperation Activities).
- ²⁵⁷ Ecuador-Chile FTA (2020), Chapter 16 (Trade and Labour), Article 16.18 (Non-Application of Dispute Resolution); Chapter 17 (Trade and Environment), Article 17.24 (Non-Application of Dispute Resolution); and Chapter 18 (Trade and Gender), Article 18.9 (Non-application of Dispute Resolution).
- ²⁵⁸ *Ibid.*, Chapter 16 (Trade and Environment), Article 16.14 (Trade and Labour Issues); Chapter 17 (Trade and Environment), Article 17.20 (Consultations on Trade and Environment).

- ²⁵⁹ *Ibid.*, Chapter 20 (Transparency), Section C (Anti-Corruption), Article 20.12 (Dispute Resolution).
- ²⁶⁰ *Ibid.*, Chapter 16 (Trade and Labour), Article 16.8 (Responsible Business Conduct).
- ²⁶¹ *Ibid.*, Chapter 17 (Trade and Environment), Article 17.8 (General Commitments).
- ²⁶² *Ibid.*, Chapter 16 (Trade and Environment), Article 16.8 (Responsible Business Conduct); and Chapter 17 (Trade and Environment), Article 17.8 (Responsible Business Conduct).
- ²⁶³ *Ibid.*, Chapter 16 (Trade and Labour), Article 16.8 (Responsible Business Conduct).
- ²⁶⁴ *Ibid.*, Chapter 16 (Trade and Labour), Article 16.10 (Public Awareness and Procedural Safeguards).
- ²⁶⁵ *Ibid.*, Chapter 17 (Trade and Environment), Article 17.6 (Public Submissions).
- ²⁶⁶ *Ibid.*, Chapter 16 (Trade and Labour), Article 16.10 (Public Awareness and Procedural Safeguards), paragraph 2; and Chapter 17 (Trade and Environment), Article 17.5 (Procedural Matters), paragraph 5.
- ²⁶⁷ *Ibid.*, Chapter 16 (Trade and Labour), Article 16.10 (Public Awareness and Procedural Safeguards), paragraph 5; and Chapter 17 (Trade and Environment), Article 17.5 (Procedural Matters), paragraph 6.
- ²⁶⁸ *Ibid.*, Chapter 16 (Trade and Labour), Article 16.11 (Public Submissions).
- ²⁶⁹ *Ibid.*, Chapter 17 (Trade and Environment), Article 17.6 (Public Submissions).
- ²⁷⁰ *Ibid.*, Chapter 17 (Trade and Environment), Article 17.6 (Public Submissions), paragraph 2; and Chapter 16 (Trade and Labour), Article 16.11 (Public Submissions), paragraph 2.
- ²⁷¹ *Ibid.*, Chapter 16 (Trade and Environment), Article 16.11 (Public Submissions); and Chapter 17 (Trade and Environment), Article 17.6 (Public Submissions).
- ²⁷² Occidental Petroleum Corporation and Occidental Exploration and Production Company vs. The Republic of Ecuador, ICSID Case No. ARB/06/11, Decision on Annulment, 2 November 2015, paragraphs 27 and 586, <https://www.italaw.com/sites/default/files/case-documents/italaw4449.pdf>.
- ²⁷³ Reference is made here to the case Chevron Corporation and Texaco Petroleum Corporation vs. Republic of Ecuador (II), Permanent Arbitration Court Case (CPA) No. 2009-23.
- ²⁷⁴ Chevron Corporation and Texaco Petroleum Corporation vs. the Republic of Ecuador (II), PCA Case No. 2009-23, Claimant's Notice of Arbitration, 23 September 2009, paragraph 25, https://www.italaw.com/sites/default/files/case-documents/ita0155_0.pdf.
- ²⁷⁵ Chevron Corporation and Texaco Petroleum Corporation vs. the Republic of Ecuador (II), PCA Case No. 2009-23, Claimant's Notice of Arbitration, 23 September 2009, https://www.italaw.com/sites/default/files/case-documents/ita0155_0.pdf.
- ²⁷⁶ Government of Ecuador (2008), Constitución, Article 422, https://www.asambleanacional.gob.ec/sites/default/files/documents/old/constitucion_de_bolsillo.pdf.
- ²⁷⁷ A survival clause in an investment treaty typically allows for certain provisions to continue to apply to existing investments for a determined period of time after the termination or expiration of the agreement.
- ²⁷⁸ Germany, Argentina, Bolivia, Canada, Chile, China, Spain, the United States, France, Italy, the Netherlands, Peru, the United Kingdom, Sweden, Switzerland and Venezuela.
- ²⁷⁹ 2019 Ecuador-Brazil Cooperation and Facilitation Investment Agreement (CFIA), Preamble.
- ²⁸⁰ 2019 Ecuador-Brazil CFIA, Article 17, (Provisions on Investment and Environment, Labour Matters and Health), paragraph 1.
- ²⁸¹ 2019 Brazil-Ecuador CFIA, Article 14 (Corporate Social Responsibility), paragraph 1.

²⁸² *Ibid.*, paragraph 2.

²⁸³ *Ibid.*

mneguidelines.oecd.org



**Funded by
the European Union**