10 Promoting responsible business conduct as a strategic choice

Promoting and enabling responsible business conduct (RBC) is key to attract and retain quality investment and ensure that business activity contributes to broader value creation and sustainable development. This chapter reflects on achievements and challenges in MENA economies in promoting and enabling RBC.

Summary and policy considerations

Promoting and enabling responsible business conduct (RBC) is central to ensure that business activity contributes to broader value creation and sustainable development. RBC principles and standards set out an expectation that all businesses avoid and address negative impacts of their operations, including throughout the supply chain and business relationships, on the environment and society, while contributing to sustainable development where they operate. RBC is an integral part of a quality investment climate, and in recent years has been a priority policy area in the international economic agenda.

The impetus to promote RBC among MENA businesses is not only a social matter but also an economic one. As demands for RBC are growing, companies that participate in global supply chains must be aware of international expectations of RBC. Some of the key trading partners of the eight MENA economies covered in this report (MENA focus economies), such as the EU, have integrated RBC principles and standards in their policies and legislations. This makes promoting RBC particularly important for MENA countries to ensure integration in supply chain networks. Businesses that implement RBC principles and standards are also better equipped to sustain supply chain and operational shocks, and ultimately build resilience and long-term value. This is notable in the context of the Covid-19 pandemic and its impact on supply chains as well as occupational safety at work.

The notion that businesses should contribute to society is prevalent throughout the MENA region. In line with global trends, awareness and understanding of RBC in the region is growing and increasingly moving from approaches based on philanthropy and social investments towards a more comprehensive approach that looks at how core business operations affect society. Promising initiatives driven by businesses and other stakeholders could be leveraged to communicate clear expectations on RBC and support a common understanding of RBC among businesses of all sizes and types.

All MENA governments promote sustainability as a development objective and important commitments towards RBC have been made, although approaches differ across economies. Among the eight MENA focus economies, four governments – Egypt, Jordan, Morocco, and Tunisia – have adhered to the OECD *Declaration on International Investment and Multinational Enterprises*, thus committing to promote the OECD *Guidelines for Multinational Enterprises* (the *Guidelines*) and to establish a National Contact Point (NCP) to further their effectiveness. NCPs are agencies established by governments to promote the *Guidelines*, and to handle cases as a non-judicial grievance mechanism. Notably, Morocco's NCP has taken an active role in the promotion of RBC. In many cases though, this mechanism has been under-utilised and should be strengthened to fulfil its mandate and support the sound design and implementation of RBC policies in the region.

MENA economies have every interest in building on existing strengths to promote wide implementation of internationally recognised RBC standards. An opportunity exists to ensure that businesses conduct due diligence to identify, prevent and mitigate environmental and social risks, and address RBC issues that are prevalent in specific industries. Implementing RBC standards requires broad engagement with businesses but also with all stakeholders, including relevant government ministries and agencies, NGOs and trade unions. MENA governments could do more to create an environment that enables all stakeholders to contribute to the design and implementation of RBC standards. MENA governments have a practical opportunity to lead by example in their role as economic actors and could be more proactive in integrating RBC standards in state-owned enterprises (SOEs). Communicating in a clear and transparent manner what RBC policies are in place in SOEs could send a signal to the business community and incentivise RBC. Developing overarching frameworks on RBC such as National Action Plans (NAP), in line with good practice, could be one avenue to enable greater stakeholder engagement, promote policy coherence on RBC, and signal to international partners and domestic constituencies commitments to improving the overall business environment.

Policy considerations

- Develop National Action Plans on RBC in all MENA economies, in line with international good practice and in wide consultation with stakeholders. The development of NAPs would help build multi-stakeholder support for RBC and advance reforms needed to ensure an adequate legal framework that protects the public interest and underpins RBC.
- Leverage existing collaborative initiatives to actively promote and disseminate RBC due diligence instruments among businesses in key industries. In particular, there is an opportunity to build on existing collaborative initiatives to facilitate dialogue and support application of the OECD *Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector*, as a way to improve industrial relations and enhance competitiveness of the garment sector in MENA economies.
- Facilitate meaningful stakeholder engagement in the design and implementation of RBC policies and processes. Particular attention should be paid to ensuring meaningful engagement in the early stages of policy development, and prioritising reforms to ensure that stakeholders are empowered to participate in consultative processes.
- Implement RBC standards in state-owned enterprises (SOEs). The Guidelines, together with the OECD *Guidelines on Corporate Governance of State-Owned Enterprises* and the *UN Guiding Principles*, provide a comprehensive framework for addressing RBC in SOEs. As a first step, MENA governments could consider communicating in a clear and transparent manner the RBC policies that their SOEs have in place.
- Strengthen NCPs capabilities in Egypt, Jordan and Tunisia and pursue ongoing efforts in Morocco. This may involve ensuring that NCPs are provided with adequate human and financial resources to fulfil their mandate. NCPs could also engage with peers in the region and beyond to share experience and build their capacity. Voluntary peer reviews could also be considered to assess practical aspects of NCP functioning and identify opportunities for further improvements.

Scope and importance of responsible business conduct

RBC means that businesses should make a positive contribution to sustainable development, while avoiding and addressing adverse impacts of their operations, including throughout their supply chains and business relationships. Risk-based due diligence – a process through which businesses identify, prevent and mitigate their actual and potential adverse impacts and account for how those impacts are addressed – is a key element of RBC.

Many businesses, governments and stakeholders are familiar with the term corporate social responsibility (CSR), which is often used to describe business interactions with society. CSR tends to be considered alongside RBC and Business and Human Rights (BHR), with some using the terms interchangeably (e.g. the European Union). All these concepts reflect the expectation that businesses should consider the impact of their operations and supply chains on people, the planet and society as part of their core business operations and not as an add-on. A key characteristic of CSR, RBC and BHR is that they refer to corporate conduct beyond simply complying with domestic law. They call on business to contribute positively to sustainable development while managing risks and any harm that may result from their activities and from that of their suppliers and partners. These concepts should not be understood to be equivalent to philanthropy (OECD, 2015[1]).

While it is the role of businesses to act responsibly, governments have a duty to protect the public interest and a role in providing an enabling framework for RBC. Governments can support RBC in several ways (Box 10.1). When governments provide an enabling environment for businesses to act responsibly and meet their duty to protect the public interest from potential negative impacts of business activities, they are more likely to keep and attract responsible investors. They are also more likely to minimise the risks of potential adverse impacts of investments and ensure broader value creation and sustainable development (OECD, 2015[1]).

Box 10.1. Role of governments in promoting and enabling responsible business conduct

Governments can promote and enable RBC in several ways, as outlined in the OECD Policy Framework for Investment:

Regulating: establishing and enforcing an adequate legal framework that protects the public interest and underpins RBC, and monitoring business performance and compliance;

Facilitating: clearly communicating expectations on what constitutes RBC, providing guidance with respect to specific practices and enabling enterprises to meet those expectations;

Co-operating: working with stakeholders in the business community, workers' 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;

Leading by example: setting the example as an economic actor.

Source: (OECD, 2015[1])

RBC expectations are affirmed in international principles and standards, as well as increasingly in national legislation (Box 10.2, see also Chapter 3 on the domestic legal framework for investment). The main OECD instrument for promoting and enabling RBC is the OECD *Guidelines for Multinational Enterprises* (the *Guidelines*) (OECD, 2011[2]) As noted in the introduction to this chapter, the *Guidelines* are part of the OECD *Declaration on International Investment and Multinational Enterprises* (the *Declaration*), which is a policy commitment to provide an open and transparent investment environment and to encourage the positive contribution businesses can make to economic and social progress (OECD, 2011[3]).

The *Guidelines* are practical recommendations from governments to businesses on how to act responsibly. They cover all areas of business responsibility, including information disclosure, human rights, employment and labour, environment, anti-corruption, science and technology, competition, taxation, and consumer interests. Their purpose is to ensure that business operations are in harmony with government policies, strengthen the basis of mutual confidence between businesses and the societies in which they operate, improve the foreign investment climate, and enhance the contribution of the private sector to sustainable development (OECD, 2011[2]). Together with the *UN Guiding Principles on Business and Human Rights*, the fundamental International Labour Organisation (ILO) conventions and ILO MNE Declaration, the *Guidelines* are one of the major international instruments on RBC. The *Guidelines* do not aim to introduce differences of treatment between multinational and domestic enterprises, but to reflect good practice for all. Adherents to the *Declaration* encourage observance of the *Guidelines* to the fullest extent possible, including among SMEs, while acknowledging that these businesses may not have the same capacities as larger enterprises.

To support implementation of the *Guidelines*, the OECD has developed due diligence guidance, which provides practical recommendations to businesses on how to identify and respond to the risks of adverse impacts associated with particular products, regions, sectors or industries.[1]

To date, all 37 OECD members and 12 additional economies – including, in the MENA region, Egypt, Jordan, Morocco and Tunisia – have adhered to the *Guidelines*. Governments that adhere make a binding commitment to implement the *Guidelines* and encourage their use. The *Guidelines* have a unique implementation mechanism, the National Contact Points (NCPs), which are agencies established by governments. Their mandate is twofold: to promote the *Guidelines* and related due diligence guidance, and to handle cases (referred to as “specific instances”) as a non-judicial grievance mechanism. Adhering governments have an obligation to establish a NCP to further the effectiveness of the *Guidelines*. (OECD, 2020[4]).

Promoting RBC in MENA can help attract quality FDI and participate in trade

The impetus to promote RBC among MENA businesses is not only a social matter but also an economic one. Companies that participate in global supply chains must be aware of international expectations of RBC (Box 10.2). The UK, which is one of the top ten sources of FDI to the MENA focus economies, requires companies of a certain size to prepare an annual report on steps taken to ensure the absence of modern slavery and human trafficking in supply chain or business operations.[2] The EU, which is the second most important regional source of FDI to the MENA focus economies, has integrated RBC principles and standards in a number of policies, legislations and economic instruments.[3] For example, the EU Trade for All policy includes objectives to reinforce CSR initiatives and due diligence across the production chain (European Commission, 2015[5]). All EU Free Trade Agreement negotiations since 2011 include binding sustainability provisions (OECD, 2020[4]).

To date, seven out of the eight MENA focus economies have concluded Association Agreements with the EU, including reciprocal free trade agreements essentially limited to trade in goods (Algeria, Egypt, Jordan, Lebanon, Morocco, Palestinian Authority, and Tunisia)[4]. Since 2011, negotiations are ongoing to widen existing agreements through the establishment of Deep and Comprehensive Free Trade Areas with Egypt, Jordan, Morocco and Tunisia.[5] In this context, any supplier to EU businesses that integrates internationally-recognised RBC instruments like the *Guidelines* will have a comparative advantage over those that do not. These firms can more easily address concerns about environmental, social, human rights or labour issues that may arise in the due diligence processes of MNEs assessing country and supplier risks (OECD, 2020[4]).

Various studies have also demonstrated that implementing RBC principles and standards can enhance financial performance. Empirical evidence from a study led by the OECD on 6,500 companies showed that the “social score” – a measure of a company's capacity to generate trust and loyalty with its workforce, customers and society – had a positive effect on companies’ return on equity and return on assets (OECD, 2017[6]). The business case is often confirmed when looking at index performances. For example, on the Egyptian stock exchange, a comparison the between the EGX100 and the S&P EGX ESG shows that on average over the last 10 years responsible companies tend to perform better[6] (OECD, 2020[4]). A recent study analysing the impact of CSR practice on the financial performance of a sample of 61 Jordanian companies listed on the Amman stock exchange over the period 2012-2016 concluded that on average CSR had a positive impact on firms’ return on assets (Al Qaisi, 2019[7]).

The COVID-19 health and economic crisis has shown that RBC can also help business build resilience and create long-term value. Businesses that observe RBC standards and implement due diligence might be in a better position to respond and recover from supply chain and operational shocks. Information from supply chain due diligence, for example on origin of raw materials, can be used to understand short- and medium-term vulnerabilities in the supply chain, and support continuity planning to manage disruptions

(OECD, 2020[8]). Applying RBC standards throughout the supply chain can reduce the negative impacts of enterprises' activities, improve the reputation of these enterprises and the locations where they operate, and decrease supply chain disruptions (OECD, 2018[9]).

Box 10.2. Rising international expectations on RBC

The financing needs for achieving the SDGs, as well as the essential role of the private sector as a driver of economic growth and job creation, have placed businesses at the centre of the global development agenda. High-level commitments from UN member states and the G20 and G7 have made it clear that RBC is a priority on the international agenda.

G20 Ministers of Labour and Employment committed in 2018 to promote due diligence and transparency in global supply chains, and encouraged businesses to consider the 2018 OECD *Due Diligence Guidance for Responsible Business Conduct*. G20 Leaders committed in 2017 to foster the implementation of labour, social and environmental standards and human rights in line with internationally recognised frameworks, including the *Guidelines*.

RBC expectations are also reflected in domestic legislation. Several countries, including the UK, Australia, France and the US, have passed laws to strengthen due diligence requirements to address supply chain and sustainability risks. RBC is also frequently referenced in trade, investment and co-operation agreements. Any company that wishes to integrate in the global economy through trade and investment must be aware that their buyers, clients and partners may have various RBC obligations. RBC is also an entry point for any company that wishes to contribute to the SDGs or achieve specific economic and sustainability outcomes (see Chapter 2).

Source: (OECD, 2019[10])

Awareness and understanding of RBC in the MENA region is growing

The notion that businesses should contribute to society is prevalent throughout the MENA region. One of the five pillars of Islam is *zakat*, an obligation of charity that is common practice among organisations and individuals in the region. A corporate philanthropy concept, *waqf*, dates back to the 11th century and is a charitable endowment under Islamic law that involves donating assets for religious or charitable purposes (Jamali, 2017[11]). While philanthropy and social investments tend to be the main form of RBC engagement by businesses in the MENA region, governments' and firms' understanding of RBC is gradually evolving towards a more comprehensive approach that looks at how core business operations affect society (OECD, 2020[4]) (OECD, 2013[12]) (OECD, 2012[13])

A survey of 638 businesses, primarily listed entities, was carried out in 2018 to understand the degree of awareness and integration of CSR/RBC practices in 18 MENA economies, including 6 of the MENA focus economies (Algeria, Egypt, Jordan, Lebanon, Morocco, Tunisia, and the Palestinian Authority)[7]. The results show that a majority of businesses surveyed (64%) integrate environmental or social considerations in some form. Among them, 31% report having a holistic strategy in place to address sustainability topics across the entire organisation and in consideration of all stakeholders (Sustainable Square, 2019[14]).

Progress on firms' awareness of and commitment to RBC is exemplified in businesses participation in the UN Global Compact Network, which supports companies to act responsibly and advance social goals. The network counts 96 companies in Egypt and 51 participants in Tunisia in 2020. Participation is lower in Jordan and Morocco; each have fewer than 25 firms in the Network (UNGC, 2020[15]). Various business associations and chambers of commerce take an active role to promote RBC in the region. In Morocco, the main business association, the *Confédération Générale des Entreprises du Maroc*, has issued a CSR label since 2006 in recognition of companies' engagement and strategic inclusion of CSR issues in operation. There are currently over 100 companies under the label.[8] The Confederation of Tunisian Citizen Enterprise launched a CSR promotion programme in 2011 and a CSR label in 2018. In Egypt, the Federation of Egyptian Industries, in cooperation with the ILO, also established a unit dedicated to CSR in 2015 to provide its members with expertise and technical assistance.

Important progress has been made in the region on advancing RBC principles in the financial sector. Stock exchanges in Amman, Casablanca, Tunis, Cairo and Alexandria are part of the Sustainable Stock Exchanges Initiative (SSEI), a UN Partnership Programme that supports enhanced firm performance on environmental, social and corporate governance issues. With the exception of *Bourse de Tunis*, all of these exchanges also provide written guidance to firms on reporting on sustainability performance (SSE, 2020[16]). Morocco's *Bourse de Casablanca*, for example, details how to promote corporate social responsibility among publicly traded companies (Bourse de Casablanca and Autorite Marocaine du Marche des Capitaux, 2017[17]). In 2018, the Amman Stock Exchange published two sustainability brochures to provide businesses with guidance on sustainability reporting and sustainable business practices.[9] At the regional level, the Hawkamah Institute for Corporate Governance and S&P Dow Jones Indices jointly launched in 2011 the S&P/Hawkamah ESG Pan Arab Index – a regional index tracking the performance of 50 stocks leading on a set of ESG criteria in Bahrain, Egypt, Jordan, Lebanon, Kuwait, Morocco, Oman, Qatar, Saudi Arabia, Tunisia, and the United Arab Emirates (S&P Dow Jones Indices, 2020[18]).

While the number of initiatives related to RBC in the MENA region has increased, they tend to be more prevalent among large business and multinational enterprises than smaller firms. RBC expectations apply to all businesses – regardless of their legal nature, size, ownership structure, or the sector of the economy in which they operate.

Important commitments towards RBC have been made

MENA governments vary substantially in their approach towards RBC. As adherents to the OECD *Guidelines for Multinational Enterprises*, Egypt, Jordan, Morocco and Tunisia have committed to support responsible business practices, including by improving domestic policies to enable RBC. Each has made a binding commitment to establish a National Contact Point to promote and help implement the *Guideline*s (see below on the status of NCPs in the four MENA economies). All four countries also participate in annual exchanges with representatives from the 50 governments that adhere to the *Guidelines* to share experiences on RBC (OECD, 2019[10]).

Most countries in the MENA region have national sustainable development strategies, which often cite RBC principles, though not always explicitly. Egypt's Sustainable Development Strategy (Vision 2030), recognises the important role of the private sector in achieving the SDGs (Government of Egypt, 2017[19]). The Palestinian National Policy Agenda prioritises creating permanent employment opportunities, ensuring a safe working environment, and environmental sustainability (Palestinian Authority, 2016[20]). Jordan's 2025 National Vision and Strategy highlights CSR goals (Government of Jordan, 2014[21]). Many MENA economies also outline social and environmental goals in investment legislation. Algeria, Egypt and Tunisia all stress the aim that investment should contribute to sustainable development in recent revisions to Investment Laws (see Chapter 3 for more details on recent legislative reforms in the MENA region).

Steps have been taken to enhance the enabling framework for RBC. Most MENA economies have notably undertaken reforms to encourage sound governance practices and increase transparency. For example, corporate governance codes have been developed in all MENA focus countries since 2005 (OECD, 2019[22]). A 2017 report by the Hawkamah Institute found that listed companies in the MENA region had significantly improved transparency and disclosure levels since 2007.[10] Important challenges persist however, notably in the disclosure of beneficial ownership and related party transactions (OECD, 2019[22]).

There is also an opportunity to enhance disclosure on environmental, social and governance aspects, which remains relatively limited in the region (Ould Daoud Ellili, 2020[23]).

Some MENA governments have also supported awareness-raising forums on CSR. Egypt has held annual CSR forums since 2015 to integrate efforts by the government, business community and civil society organisations to promote CSR in Egypt (OECD, 2020[4]). The Lebanese government also supports a business network to promote sustainability practices among private sector firms in the country. Such initiatives could be scaled up and leveraged to support wide dissemination of internationally-recognised RBC standards such as the *Guidelines* and OECD due diligence instruments.

MENA economies face challenges in implementing RBC principles and standards

While nearly all MENA governments recognise sustainability as a development objective, more could be done to create an environment that fosters a positive contribution of the private sector to development objectives. This section highlights areas where MENA governments could focus their efforts to improve the enabling environment for RBC and support implementation of RBC principles and standards by businesses.

Advancing human and labour rights

States have a primary duty to protect against human rights abuses. At the same time, businesses are expected to respect human rights independently of the state's ability or willingness to fulfil its human rights obligations. The eight MENA focus economies are parties to most of the core UN human rights treaties, although only Morocco has ratified all core instruments.[11] International organisations continue to raise concerns in particular about the protection of human rights defenders in all of the MENA focus economies. Specific concerns common to all MENA focus economies include the repression of peaceful protests and online dissent, including arrests and prosecution of activists (Amnesty International, 2020[24]) (OECD, 2018[25]).

Human rights defenders play a critical role in the due diligence process, in enabling companies to understand the concerns of stakeholders that may be adversely impacted by business operations. Affected stakeholders include workers, local communities, unions, journalists, activists or consumers and have to be engaged taking into account their particularities and pre-existing vulnerabilities.

Every country in the region could do more to ensure that workers and civil society organisations can take part in policy design and due diligence processes. Creating an environment where stakeholders are empowered to express their views and actively participate in policy design is essential for RBC. The *Guidelines* recommend that enterprises participate in private or multi-stakeholder initiatives and social dialogue on responsible supply chain management. For human rights impacts in particular, the *Guidelines* recommend that companies consult and engage workers, workers' representatives and trade unions to gather information on adverse impacts and risks. Where directly consulting with stakeholders is not possible, reasonable alternatives such as consulting credible, independent expert resources, including human rights defenders, trade unions and civil society groups could be considered (OECD, 2018[25]).

Stronger labour rights are often associated with higher foreign investment (Busse, Nunnenkamp and Spatareanu, 2011[26]) (Kucera, 2002[27]). Multinational companies may shy away from investing in countries with low labour standards because of reputational risks and to fulfil international standards on RBC. Most MENA focus economies have ratified all or seven of the eight fundamental ILO conventions – which cover fundamental principles and rights at work, such as the right to collective bargaining and elimination of forced labour – and three of the four of the governance conventions – which cover labour inspections, employment policy, and tripartite consultations (Table 10.1). These commitments show MENA governments' intent to align legal frameworks with international standards.

There are concerns about the application of these standards in practice, however, including complaints raised to the ILO, primarily for alleged violations of Freedom of Association rights. In Algeria for example, there is an active complaint by a trade union in the energy sector alleging “a systematic crackdown on its officers and members”, and failure of the government to secure their trade union rights (ILO, 2018[28]). Other cases raised to the ILO over the past decade include allegations by five trade unions in Egypt of “serious and systematic violations of the right to freedom of association”, and claims in Jordan that the country’s labour legislation and regulations are “not in conformity with the principles of freedom of association” (ILO, 2015[29]) (ILO, 2012[30]). International human rights organisations report that freedom of association of workers has worsened in Egypt following amendments to the Trade Unions Law in 2017. Violent dispersal of trade union and labour demonstrations is common in many countries in the region (Amnesty International, 2020[24]).

Table 10.1. Ratifications of ILO Conventions

Country (member since)	Fundamental (8)	Governance (4)	Technical (178)	Total (190)
Algeria (1962)	8	3	49	60
Egypt (1936)	8	3	53	64
Jordan (1956)	7	3	16	26
Lebanon (1948)	7	2	42	51
Libya (1952)	8	2	19	29
Morocco (1956)	7	4	54	65
Tunisia (1956)	8	3	52	63

Note: Palestinian Authority not included. ILO Conventions are all legally binding international treaties that may be ratified by ILO member states. If it is ratified, a Convention generally comes into force for that country one year after the date of ratification. The ILO Governing Body has identified eight “fundamental” Conventions, covering subjects that are considered to be fundamental principles and rights at work, and has also designated another four Conventions as governance (or priority) instruments, thereby encouraging member States to ratify them because of their importance for the functioning of the international labour standards system. Technical Conventions are also legally binding once ratified and encompasses all of the other international labour standards in the ILO scope of work.
Source: (ILO, 1919-2020[31])

Supporting industry initiatives

Ensuring wide dissemination and active promotion of internationally recognised RBC due diligence instruments such as OECD *Due Diligence Guidance for Responsible Business Conduct* and OECD sector-specific due diligence guidance can help promote a common understand among businesses, governments and stakeholders as to what RBC entails. RBC due diligence guidance provide practical support to enterprises on the implementation of RBC principles and standards. Implementing these recommendations can help enterprises avoid and address adverse impacts related to workers, human rights, the environment, bribery, consumers and corporate governance that may be associated with their operations, supply chains and other business relationships.

Such measures are often more easily implemented and effective if undertaken collectively. This is particularly true to address issues that cannot be solved by one actor alone. For example, poor business practices among buyers in the value chain can play a role in decisions to require excessive or forced overtime and subcontract illegally (OECD, 2020[8]). A 2017 survey of 1,454 companies by the ILO highlighted the role that buyers can play, by imposing extreme pressure on suppliers’ price quotes. Across all sectors, 39% of suppliers reported having accepted orders whose price did not allow them to cover their production costs. The textile sector was an outlier in this survey with such an outcome reported for 52% of suppliers (ILO, 2017[32]). Practices including abrupt suspensions of contracts and cancellation of orders had significant effects on workers globally during the COVID-19 crisis (OECD, 2020[8]).

The garment sector is an important driver of growth in some of the MENA focus economies and provides an example of how industry players can organise themselves and collaborate to promote RBC. For example, the Better Work programme – an ILO/IFC partnership that aims to improve working conditions and boost the competitiveness of apparel businesses – is active in Egypt and Jordan. In 2019, the Better Cotton Initiative (BCI), the largest cotton sustainability programme in the world, launched a pilot programme in Egypt in partnership with the Cotton Egypt Association to create a sustainable supply chain supporting the welfare of cotton workers and the environment. BCI also has members in Tunisia.

MENA governments could benefit from convening, engaging and supporting such initiatives. They could also leverage them to actively disseminate guidance on RBC tailored to the specific needs of the industry, such as the OECD *Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector* (OECD/FAO, 2016[33]).

Promoting RBC standards in the garment and footwear sector, where women often represent a large majority of the workforce, can go a long way in promoting gender equality, which remains a challenge in the MENA region. Gender equality can generate positive economic outcomes (see Chapter 2). An Egyptian factory participating in a programme initiated by Levi Strauss to build a network of better-run factories reported that the programme had a four-to-one return on investment, largely because of interventions focused on women (Fry, 2017[34]).

RBC challenges are not limited to one particular sector and examples in the garment and footwear sector could be replicated and expanded to other industries, including those covered by OECD sectoral due diligence instruments. These include, the OECD *Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas*, the OECD-FAO *Guidance on Responsible Agricultural Supply Chains*, and the *Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector*.

Improving environmental protection

The *Guidelines* call on enterprises to take account the need to protect the environment. This entails, among other responsibilities, establishing and maintaining appropriate environmental management systems; assessing and addressing the environmental impacts associated with the processes, goods and services of the enterprise over their full life cycle; improving environmental performance; and being transparent about environmental impacts and risks. Governments should set clear expectations to business enterprises in this regard.

MENA governments have taken steps to promote protection of the environment and natural resources. Several countries offer tax incentives or grants to investment projects that advance environmental protects. For example, Tunisia offers firms in recycling and waste treatment corporate income tax rates of less than half the standard rate, and Libya and Algeria grant tax holidays to investments that preserve the environment and protect natural resources. Egypt, Jordan, the Palestinian Authority and Tunisia also offer fiscal or financial incentives for investment in renewable energy (See Chapter 7 on Investment Incentives).

There is scope for further progress on environmental protection, evidenced by the relatively low ranking of some MENA economies according to the 2020 Yale Environmental Performance Index, which ranks 180 countries on environmental health and ecosystem vitality. The index provides a gauge at a national scale of how close countries are to established environmental policy targets. Jordan (48) ranks top of its peers, followed by Tunisia (71), Lebanon (78), Algeria (84), Egypt (94), and Morocco (100) (Yale Center for Environmental Law and Policy, 2018[35]). High-energy emitting industries, including fossil fuels and mining, remain an important driver of investment in Egypt, Algeria, Libya, Morocco and Tunisia.

Tackling corruption

An important aspect of RBC is fighting bribery and corruption. Corruption discourages investment, increases inequality, undermines the trust in governments and erodes the rule of law. Further reforms are required to lower the incidence of corruption in the public and private sector in the MENA region. The MENA focus economies rank among the bottom 50% on international indices measuring perceptions of corruption. None of the focus economies score above a passing grade according to Transparency International's Corruption Perception Index, and all but Jordan receive a negative score on the World Bank's Control of Corruption Index (see Chapter 11 on Integrity for more on progress in curbing corruption in the region and remaining challenges).

Promoting policy coherence on RBC

Despite important commitments made towards RBC, MENA countries could do more to promote and implement RBC standards, including by developing an overarching framework defining objectives and actions (through National Action Plans), leading by example in their own economic activities, and increasing awareness among business communities.

National action plans can help strengthen RBC

Business operations can affect society through a spectrum of policy areas, including labour and human rights, environment, anti-corruption and consumer interests. To strengthen coherence among all relevant laws and policies relating to RBC, many governments have developed National Action Plans on Business and Human Rights (NAP). NAPs articulate government priorities and can promote coordination among state agencies. The UN recommends that all governments develop NAPs, and that they be updated regularly (OHCHR, 2020[36]).

In the MENA region, only Morocco and Jordan have adopted or are in the processes of developing NAPs. Morocco included a chapter on business and human rights in its national Action Plan for Democracy and Human Rights 2018-2022. It encourages businesses to adopt policies to promote human rights and outlines plans to raise awareness and build capacity among businesses on the subject. The government aims to develop a full NAP in line with international standards on RBC (Government of Morocco, 2018[37]).

Jordan also includes a section on business and human rights in its Comprehensive National Plan for Human Rights 2016-2025. The Kingdom commits to review legislation related to labour contracts and establishment of unions, and to implement awareness programmes for the public and private sector on environmental sustainability (Government of Jordan, 2016[38]). The government said it developed the plan in cooperation with civil society institutions and professional associations, in line with international best practices (Jordan Times, 2016[39]).

Indeed a key element of the NAP process is multi-stakeholder engagement. Greater participation of stakeholders in policy design and implementation leads to better targeted and more effective policies. Ensuring buy-in from a variety of actors is essential to address complex and systemic challenges that may lead to negative impacts of business operations.

Governments should implement RBC in their own economic activities

When the state acts as an economic actor (e.g. as an employer, procurer, shareholder, or through the enterprises it owns or controls), governments are expected to not merely behave responsibly, but to exemplify RBC in their own role in the economy. This is a question of policy coherence as well as credibility, as the state should not ask less of companies that are closely associated with it than it asks of private businesses.

State-owned enterprises (SOEs) play a fundamental role in MENA economies. They operate across a wide range of sectors, including extractive industries, electricity and gas, telecommunications, finance, transportation, as well as manufacturing and property development. In the MENA region as a whole, governments are majority shareholders in over a third of the region's 100 largest companies listed on stock exchanges.[12] The state is a minority shareholder in an additional third (OECD, 2019[22]).

Ensuring that SOEs operate in accordance with good governance practices and RBC principles is fundamental to encourage their positive contribution to society and convey political commitment to RBC. MENA countries could consider strengthening RBC considerations in policies that apply to SOEs. This is all the more important as like any private enterprise, SOEs may have adverse impacts on a range of human rights, social and environmental issues. Likely impacts of SOEs in the region include environmental, health and safety issues, as well as treatment of workers.

Governments in the region could, as a first step, consider communicating in a clear and transparent manner the RBC policies that their SOEs have in place. The *Guidelines*, together with the OECD *Guidelines on Corporate Governance of State-Owned Enterprises* and the UN *Guiding Principles*, provide a comprehensive framework for addressing RBC in SOEs (Box 9.4) (OECD, 2015[40]).

Box 10.3. SOE Guidelines: provisions on stakeholder relations and responsible business

The OECD *Guidelines on Corporate Governance of State-Owned Enterprises* (SOE Guidelines) outline good practice standards for enhancing engagement with stakeholders on SOE ownership. The text of Chapter V on stakeholder relations and responsible business is as below:

The state ownership policy should fully recognise SOEs' responsibilities towards stakeholders and request that SOEs report on their relations with stakeholders. It should make clear any expectations the state has in respect of responsible business conduct by SOEs.

- Governments, the state ownership entities and SOEs themselves should recognise and respect stakeholders' rights established by law or through mutual agreements.
- Listed or large SOEs should report on stakeholder relations, including where relevant and feasible with regard to labour, creditors and affected communities.
- The boards of SOEs should develop, implement, monitor and communicate internal controls, ethics and compliance programmes or measures, including those which contribute to preventing fraud and corruption. They should be based on country norms, in conformity with international commitments and apply to the SOE and its subsidiaries.
- SOEs should observe high standards of responsible business conduct. Expectations established by the government in this regard should be publicly disclosed and mechanisms for their implementation be clearly established.
- SOEs should not be used as vehicles for financing political activities. SOEs themselves should not make political campaign contributions.

Source: (OECD, 2015[40])

Beyond its role as a shareholder of companies, MENA governments also play a key economic role in public procurement of goods, services and works. In the MENA region as a whole, governments spend approximately 18% of their GDP on public procurement (OECD, 2016[41]). If used strategically, public procurement policies and processes offer an important avenue for governments to incentivise RBC. Governments could use RBC criteria, such as environmental impact or labour standards, in the tender process, selecting partners that follow RBC standards. Several of the MENA focus economies have taken steps to integrate non-financial considerations into their public procurement processes. For example, Morocco requires that public procurement comply with the rules for the protection of the environment. Tunisia's public procurement rules provide that tender specification should consider environmental and social aspects and take into account global sustainable goals (OECD, 2016[41]).

Strengthening MENA National Contact Points

National Contact Points for Responsible Business Conduct (NCPs for RBC) have a twofold mandate: to promote the OECD *Guidelines for Multinational Enterprises*, and related due diligence guidance, and to handle cases (referred to as "specific instances") as a non-judicial grievance mechanism. To date, 50 governments, all adherents to the *Guidelines* and thus including Egypt, Jordan, Morocco and Tunisia, have an NCP for RBC. All governments adhering to the Guidelines have a legal obligation to set up an NCP. Governments have flexibility in how they set up their NCP, provided all NCPs meet basic criteria laid out in the Procedural Guidance to the *Guidelines* (Box 9.4) (OECD, 2011[2]).

Box 10.4. Structures and criteria for National Contact Points

Core criteria laid out in the Guidelines for NCPs are visibility, accessibility, transparency and accountability (OECD, 2011[2]). The *Guidelines* also spell out guiding principles for the handling of specific instances, namely impartiality, predictability, equitability and compatibility with the *Guidelines*. Finally, the *Guidelines* contain a number of additional criteria with regard to the practical organisation of the NCP and functioning of the NCP, in particular:

- Have sufficient human and financial resources;
- Develop and maintain relations and confidence with social partners and stakeholders;
- Be headed by a senior person;
- Collaborate and engage in peer learning with other NCPs;
- Report to the Investment Committee.

In practice, four main types of NCP structures have been set up by adhering governments:

- Single agency NCP: The NCP is composed of one individual in a single ministry, or by a group of individuals belonging to the same service in the same ministry.
- Inter-agency NCP: The NCP is composed of a group of representatives from several ministries or government agencies.
- Multipartite NCP: The NCP is composed of a group of government officials and stakeholder representatives.

Expert-based NCPs: The NCP is composed of experts who are appointed by, but external to, the government.

Source: (OECD, 2011[2]), (OECD, 2011[42])

NCPs can build relations with and involve stakeholders in a variety of ways. Multipartite NCPs include stakeholder representatives in the main institutional body of the NCP, whereas other NCPs may create an advisory body composed of stakeholders' representatives that provide advice and support to the NCP. Inclusion of stakeholders in NCP structures has been shown to be a major factor for building and retaining the necessary relationship of confidence between the NCP and stakeholders (OECD, 2019[43]).

Table 10.2. Key organisation and activity data for MENA NCPs

	Structure	Location	Active website	Dedicated budget	Promotional events	Cases since adhesion	RoP online	Number of staff	Full time staff	Turnover	Dedicated budget	Attended NCP meetings	Peer review
Egypt	Single agency, no advisory body	Formerly: Ministry of Investment and international cooperation	No	No	0	0	No	0	0	Yes	No	Yes	No
Jordan	Single agency, no advisory body	Investment promotion agency	No	No data	No data	0	No	No data	No data	No data	No data	No	No
Morocco	Inter-agency, no advisory body	Investment promotion agency	Yes	Yes	16	4	Yes	2	0	No	Yes	Yes	No
Tunisia	Multipartite	Ministry of Development, Investment and International Cooperation	No	No	2	0	No	2	1	Yes	No	Yes	Committed 2022

Source: NCP annual reports to the OECD and OECD case database.

Table 10.2 outlines MENA NCPs' organisation and activity in 2019. In terms of structure, the four MENA NCPs are fairly diverse, with three different models represented (single agency, inter-agency, multipartite), though only Tunisia's NCP includes stakeholders in its structure. The Tunisian NCP was re-established in 2018 after a period of hiatus and the composition of its multi-partite structure is still under construction, as it is currently in the process of inviting relevant organisations to become members.

All MENA NCPs are either located in an investment promotion agency (IPA) or in a ministry responsible for investment or economic affairs. The proximity of some NCPs with investment promotion portfolios has sometimes raised questions regarding the perception of impartiality of these NCPs. Stakeholders have questioned whether conflicts of interest might emerge between, for example, the NCP's role in handling a case, and the wider role of the IPA or ministry to promote investment within the country (OECD, 2019, p. 5[44]). It is therefore important that governments clearly delineate boundaries between the work of the NCP and investment promotion activities (See Chapter 6 for more details on MENA IPAs' functions and activities).

Of note is the low level of activity across NCPs of the MENA region, except for the Moroccan NCP. As indicated, one of the main activities in the NCP mandate is to disseminate and promote the *Guidelines* and related due diligence guidance with businesses and other stakeholders. This can be done in many ways, including distributing promotional materials or responding to enquiries from the public about RBC. To maximise their promotional impact, NCPs also regularly organise informational or training events on various RBC themes, or make presentations at such events organised by other actors. For example, in February 2020, the Moroccan NCP organised an information workshop for professionals from the textile sector on the OECD Due Diligence Guidance in the Garment on Footwear Sector (NCP for RBC Morocco, 2020[45]). Other MENA NCPs have been largely inactive as regards to NCP promotion in recent years. NCP cases are also low in the region, as only the Moroccan NCP has handled cases (4) since its creation.

This low level of activity may partly be explained by the low level of resources available to MENA NCPs. While the Moroccan NCP has a dedicated budget that allows it to maintain a good level of activity, other MENA NCPs have to request funding for all their activities from the general budget of the ministry or agency where they are located. Low numbers of staff, high reliance on part-time staff and high turnover have been flagged as issues limiting the activity of NCPs across the entire NCP network. Turnover in particular prevents the building of long-term relations with stakeholders, damages institutional memory, and diminishes the expertise available to the NCP, as incoming staff typically have to be trained for several months before becoming fully operational.

Given the small number of cases handled by the MENA NCPs, there is little data to analyse the extent to which they comply with the *Guiding Principles* for the handling of specific instances (impartiality, equitability, predictability and compatibility with the *Guidelines*). In terms of predictability, it should be noted that only the Moroccan NCP has made its Rules of Procedure publicly available. For all other NCPs, submitters and companies involved in cases do not know in advance how their case will be handled, thereby reducing predictability. As indicated above, the location of all MENA NCPs in IPAs or ministries responsible for investment and other economic affairs without clear separation from the investment promotion portfolio may diminish the perception of impartiality of potential case submitters.

In terms of visibility and transparency, only the Moroccan NCP has an active, state-of-the-art website.[13] Other NCPs either have no website or very limited information available.

The interrelated challenges highlighted above (resources, low level of activity, low number of cases, limited visibility, reduced relations with stakeholders) are not unique to MENA NCPs, but seem to affect MENA NCPs particularly severely, the Moroccan NCP being a notable exception. Governments should ensure that NCPs have the resources and support they need, but also that NCP structures are conducive to stakeholder confidence (OECD, 2019[44]).

NCP strengthening may occur through active participation in peer learning activities offered by the OECD or by other NCPs, or by undergoing a peer review. Egypt and Morocco attended both NCP network meetings organised at the OECD in 2019, while Tunisia attended one, and Jordan none. In terms of peer learning activities organised by NCPs themselves, the Moroccan NCP organised and hosted a peer learning workshop in Rabat in October 2019 on ‘Managing specific instances in the context of the OECD Guidelines’, also led by the Consensus-Building Institute (CBI) and attended several peer learning events organised by other NCPs. The Egyptian and Tunisian NCPs attended peer learning events organised by other NCPs, and no data exists for the Jordanian NCP. Finally, in 2017, the OECD Secretariat and the Moroccan NCP conducted a peer-learning mission with the Jordanian NCP.

There seems to be willingness on the part of MENA NCPs to engage in peer learning, but resources (notably travel budget) may be a limiting factor. Regarding peer reviews, no MENA NCP has to date undergone a peer review, though Tunisia has committed to having its NCP undergo one in 2022. As adherents to the OECD *Guidelines*, the governments of Egypt, Jordan, Morocco and Tunisia should commit to having their NCPs peer reviewed by 2023.

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Notes

[1] OECD RBC Due Diligence instruments are: the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, the OECD-FAO Guidance on Responsible Agricultural Supply Chains, the Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector, the OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector and the OECD Due Diligence Guidance for Responsible Business Conduct.

[2] The UK is the seventh largest investor to the eight focus economies based on announced greenfield investment between 2003-2019. It is the largest foreign direct investor in Egypt, based on FDI inflows

[3] In addition to the examples listed, EU Directive 2014/95/EU on non-financial disclosure requires that certain companies disclose non-financial and diversity information, and encourages businesses to rely on relevant frameworks such as the Guidelines to provide this information. See: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014L0095

[4] For a complete list of Euro-Mediterranean Association Agreements, see: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM:r14104

[5] For an overview of FTA and other trade negotiations, see: https://trade.ec.europa.eu/doclib/docs/2006/december/tradoc_118238.pdf

[6] The Egyptian stock exchange tracks 8 indices, namely the EGX30, EGX50 EWI, EGX20 Capped, EGX70, EGX100, the Banks Sector Index, the Nile Index and the S&P EGX ESG. The rationale for comparing the S&P EGX ESG with the EGX100 is that it is includes a broader range of companies, both in terms of sector and size. The EGX100 combines constituents of the EGX30 and EGX70. In addition, the list of current constituents indicated that as of today, all the 30 constituents of the S&P EGX ESG are also constituents of the EGX100. Therefore, the S&P EGX ESG as it stands today could be understood as a selection of the 30 best performing companies in terms of ESG among the 100 companies listed in the EGX100. By comparison, the ESG30 can be understood as the top 30 companies by liquidity and activity among the 100 listed in the EGX100.

[7] The survey included business organisations from the United Arab Emirates, the Kingdom of Saudi Arabia, Egypt, Morocco, Tunisia, Algeria, Qatar, Oman, Kuwait, Lebanon, Bahrain, Jordan, Mauritania, Yemen, Libya, Iraq, Palestinian Authority and Sudan. The survey results are based on the responses of 638 business organisations operating in 16 sectors, with 71% of listed-companies and 84% are privately-owned. Respondents were operating in the following sector: finance and banking, manufacturing, media and telecommunication, food and beverage, oil and gas, tourism, retail, personal household goods, construction, healthcare, transport and logistics, services, automotive, chemicals, utilities and conglomerate.

[8] For more information, see: http://rse.cgem.ma/label-rse.php

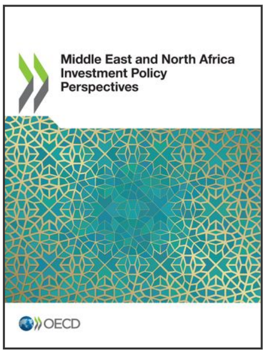
[9] For more information on the Sustainable Stock Exchanges Initiative, see: https://sseinitiative.org/stock-exchange/ase/

[10] The study compared several categories of disclosure, including disclosure of non-financial information, among the 50 largest and most liquid companies listed on 11 MENA markets: Bahrain, Egypt, Jordan, Lebanon, Kuwait, Morocco, Oman, Qatar, Saudi Arabia, Tunisia and UAE.

[11] The nine core international human rights instruments cover civil, political, economic, social and cultural rights; children's rights; rights of persons with disabilities; elimination of discrimination by race and against women; elimination of torture and other cruel, inhuman or degrading treatment; protection of rights of migrant workers and families; and protection against enforced disappearance. The full list of core international human rights treaties is available at www.ohchr.org/EN/ProfessionalInterest/Pages/CoreInstruments.aspx

[12] Figures for MENA governments' ownership of publicly-listed firms covers the wider MENA region, that is Algeria, Bahrain, Djibouti, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, Palestinian Authority, Qatar, Saudi Arabia, Tunisia, United Arab Emirates and Yemen (OECD, 2019[22]).

[13] See https://www.pcnmaroc.ma/.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