

High Level Event

The role of Responsible Business Conduct in building resilience - 21 January 2021

Key Outcomes, Reflections and Recommendations

Background

This Outcomes Note summarises key comments and recommendations made during the High Level Event on the role of Responsible Business Conduct in building resilience, co-organised by the OECD, the ILO and the European Union on the 21st January 2021.

The event focused on perspectives from Japan and brought together Japanese government officials as well as representatives of the European Union, business, worker organisations, civil society and key experts. Discussion focused on synergies between the role of Responsible Business Conduct (RBC) and International Labour Standards in building resilience in response to the COVID-19 pandemic, and efforts to implement the provisions of the [EU-Japan Economic Partnership Agreement](#) related to trade and investment favouring sustainable development.

Speakers reflected on the [Japan National Action Plan on Business and Human Rights](#), and shared opportunities to strengthen implementation of RBC/Corporate Social Responsibility (CSR) aligned with internationally recognised OECD and ILO instruments, including the [OECD Guidelines for MNEs](#) and the [ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy](#). Questions submitted by audience members during the event can be found on the event website together with the Background Note and Agenda (see [RSCA website](#)). The event was held under the Responsible Supply Chains in Asia Programme (RSCA).

High Level Comments

Mr. Hiroshi Tajima, Deputy Assistant Minister, Economic Affairs Bureau and Foreign Policy Bureau, Ministry of Foreign Affairs of Japan

- Due to the impacts of Covid-19, the role of RBC is being challenged. Many companies, regardless of size, face particularly difficult times, while the employment situation within companies is drawing more attention.
- Developments in Japan related to RBC include:
 - The UK-Japan Economic Partnership Agreement (EPA), which has just entered into force, and contains a chapter on trade and sustainable development, following on from the example in the EU Japan EPA.
 - In August 2020, an introductory guide on environmental due diligence was published and references RBC. This guide focuses on environmental impacts and due diligence and is based on the OECD's Due Diligence guidance.
 - The 2015 G7 Leaders Declaration stated that the G7 will work to ensure internationally recognised labour, social and environmental standards and commitments are better

applied in global supply chains. As part of this effort, the G7 endorsed the UNGPs and welcomed steps to develop National Action Plans on Business and Human Rights (NAP). Japan has developed a NAP, published in Oct 2020, with the aim of promoting respect for human rights in business activities.

- Japan National Contact Point for RBC (NCP) implemented an online mediation for the first time in 2020. This trial run should strengthen the functioning of the NCP.
- The Government of Japan believes widespread adoption of RBC instruments in the context of Covid-19 recovery measures will be of great help to companies.
- As supply chains become more complex and digitalisation allows companies large and small to expand in global markets, RBC-relevant guidelines facilitate trust and support smooth business operations.
- The Government of Japan will work with the EU, OECD and ILO to support dissemination of RBC throughout the international community, a level playing field, and free and fair business activities.

Ms. Ewa Synowiec, Director, Africa, Caribbean and Pacific, Asia (II), Trade and Sustainable Development, Green Deal, DG TRADE, European Commission

- The European Commission has made the drive towards sustainable economic development one of its top priorities. This objective is the main drivers for EU initiatives on climate and environmental protection as parts of the European Green Deal Strategy adopted in December 2019. This strategy foresees that the EU economy becomes climate neutral by 2050 and we are looking for alliances with other like-minded partners to follow the suit.
- Companies that had made sustainability a core part of their business plans and put in place effective, risk-based due diligence procedures, were best equipped to prevent and mitigate adverse impacts of the pandemic on their workers, business partners and customers.
- Responsible business practices are one of the key components to make commercial relations sustainable. The European Commission is committed to reinforce the EU's internal framework on RBC and due diligence.
- In June this year, the European Commission is set to adopt a legislative proposal on "Sustainable Corporate Governance" which may introduce a horizontal obligation under EU company law for companies to conduct human rights and environmental due diligence throughout their supply chain. This proposal will be complemented by a revised Non-financial Reporting Directive which will streamline sustainability reporting requirements, including on due diligence.
- As a longstanding supporter of international guidelines in the area of due diligence, the Commission is looking to base any future EU obligation on the body of work already developed within the UN, OECD and ILO framework.

Ms. Chihoko Asada-Miyakawa, Assistant Director-General and Regional Director for Asia and the Pacific, ILO

- ILO estimates comparing the last quarter of 2020 with 2019 suggest there has been a 17% decline in global working hours. This represents 495 million equivalent full time jobs, and a corresponding 10.7% decline in labour income. This scale of impact is unprecedented.
- Japan has not been spared; in the second quarter of 2020, the domestic economy shrank 29.2% from the previous quarter, the largest contraction on record since 1955.
- The vulnerability of workers has been exposed, particularly those in non-standard forms of employment, particularly women and single mothers, and in severely affected sectors.
- The ILO believes socially responsible business practices are no longer an option, and are now a requirement for business to operate in the long term.
- ILO research including through the RSCA Programme has found strong harmony between existing practices in Japanese supply chains and key elements of the ILO MNE Declaration. For example,

industrial relations built on mutual respect along supply chains. Tripartism is also well rooted in Japan.

Mr. Masamichi Kono, Deputy Secretary-General, OECD

- RBC and partnerships with the private sector are key to ensuring that current efforts to re-open economies lead to long-term resilience; namely the ability for business, supply chains, societies and communities to bounce back from on-going and future global shocks.
- 2020 has shown us that a sole focus on short-term economic growth over long-term resilience can have huge societal costs.
- This is where RBC can help – instruments like the OECD Guidelines for MNEs and the OECD Due Diligence Guidance for RBC give companies a framework to address the environmental, social and governance issues during a crisis – but also for future-proofing their businesses and supply chains.
- RBC has also reignited debates on trade, re-shoring of production, and securing supply of essential goods. In considering how to keep the flow of trade - and trade that is sustainable - in times of crisis, firms and governments need to have a sound understanding of the strengths and vulnerabilities of key supply chains, and look to embed resilience frameworks in light of this.
- The reference to RBC instruments within the trade and sustainable development provisions of the recent EU-Japan Economic Partnership Agreement (EPA), offers an important opportunity to link the role of RBC in building reliance, with trade and sustainable development priorities. This debate is not only important for the EU and Japan - but relevant to the region as a whole – where similar trade agreements are in operation or being negotiated, and where the EU and Japan can lead by example.

[Roundtable Discussion](#)

Ms. Miwa Yamada, Director, Law and Institution Studies Group, Inter-disciplinary Studies Center, Institute of Developing Economies, Japan External Trade Organization (IDE-JETRO)

- Japanese companies can contribute to the SDGs by promoting decent work and RBC in their supply chains. Supporting respect for human rights, transparency in management, accountability and constructive labour relations will lead to resilience, sustainability and increased corporate value through supply chains. Accountability, transparency, and rule of law are fundamental to RBC. Japan has an important role to play as a leader on responsible supply chains, particularly in Asia.
 - IDE-JETRO - ILO joint research on Japanese auto-part supply chains in Thailand under the RSCA programme analysed how HQ labour CSR policies were implemented by subsidiaries in Thailand, how they engaged with suppliers and labourers. It found that companies respected local partners and employees, and valued social dialogue and labour management communications. Trust with suppliers was found to be critical. IDE-JETRO and ILO will hold a seminar on auto-part supply chains on 4th Feb, 2021.
- The Japan–EU trade and sustainable development agenda is about what kind of trade and commerce will lead to what kind of markets and societies. EPAs and Strategic Partnership Agreements can be effective instruments here. The **TSD chapter creates opportunities for multi-stakeholder engagement; it would be valuable to open this up to more businesses, labour and civil society organizations**. For meaningful engagement, it is crucial that civic space and a free and open society are secured.
- Respect for human rights and RBC are the baseline for a green recovery from COVID-19. Trust with suppliers, which we found in the above research, helps overcome these challenges.

- **Government has a role to play in creating an enabling environment for companies to practice RBC that covers human rights, labour, environmental standards and good governance.** In particular, governments should **address systemic risks that businesses can't mitigate on their own.** **Intergovernmental cooperation and dialogue are also essential** for Japanese companies to promote RBC in destination markets. IDE-JETRO is ready to contribute. We hope the RSCA programme will bring synergies to the region.

Mr. Akihiro Ichimura, Chair, Sub-Committee on International Labour, Labour Legislation Committee, Keidanren

- The ILO conducted research under the RSCA programme on the electronics and auto-part industries evaluating Japanese corporate practices. Studies identified good labour practices by Japanese companies and highlighted the importance of CSR in supply chains. Recommendations were also provided to the government. In addition:
 - Corporates requested that governments develop an enabling environment for sustainable supply chains. This will lead to resilience, sustainability and enhancement of corporate value.
 - Research results suggested that training and skills development for local employees led to increased capacity and motivation for employees, due to objective and transparent HR policies. It concluded that an open platform for capacity building needs to be established with case studies and examples of good practice provided, and constructive dialogue with different ministries and agencies facilitated.
- Keidanren conducted a survey in October 2020 based on Keidanren's Charter of Corporate Conduct, the results of which shows the safety and health of workers, business continuation, and dialogue with employees and trade unions are of particular interest.
- Keidanren **views the publication of the NAP as an opportunity to accelerate initiatives on business and human rights. Tripartite discussion is crucial to solve issues stipulated in the NAP.**

Mr. Naoto Ohmi, Executive Deputy President, Rengo

- If the pandemic continues for a long time to come, we are concerned that unemployment will grow. The negative impact on vulnerable groups such as women, part-time workers, and freelancers is already evident. It is therefore important to strengthen social safety nets.
- The government, labour, and management need to share information and understanding through social dialogue to overcome this crisis and to minimize unemployment. In times of crisis such as this, we see whether human and labour rights are respected, complied with and firmly rooted.
- RENG0 is disseminating international standards on supply chains. However, RENG0 sometimes encounter the **situation where management and/or unions think that following domestic laws is sufficient; both union and management need to improve their understanding here.**
- We welcome the Japan NAP. **Regarding the protection of human rights in business activities, we believe that verification through dialogue between union and management will contribute to promoting CSR and responsible business conduct.**
- We believe that **effective monitoring by stakeholders is key to the implementation of the TSD Chapter of the EU-Japan EPA.** Both the NAP and EPA will improve the effectiveness of monitoring, and trade unions should be fully involved in these processes.

- We also request the Japanese government to accelerate efforts to ratify two ILO Conventions (No. 105 and No. 111) which outline core labour standards, and which are referenced in both documents.

Ms. Yukiko Furuya, Board Chair, CSO Network Japan

- COVID-19 is having significant impacts on societies, both on corporates, workers and communities. We have seen many workers lose jobs and homes. In Japan, we have also seen a surge in suicides by women.
- There are a significant number of issues related to human rights and the environment in supply chains. Civil society is working on issues related to palm oil and plastic, and is starting to see better collaboration.
- The CSO Network collated good practices of Japanese enterprises with ILO in 2019 to strengthen CSR from the perspective of civil society.
- Corporates activities enrich societies, but also result in people being disadvantaged and left behind. Whilst technologies such as AI are helpful, vulnerable individuals often don't see the benefits. **Access to remedy is therefore essential, and the current framework is not sufficient and should be strengthened.** We request that **the Government help establish a domestic human rights organisation together with the CSO Network.**

Ms. Yukako Kinoshita, CSR Committee Chair, Japan Business Council in Europe

- The impact of this agenda on Japanese companies is increasing. We are informing our members that they will likely be subject to new EU laws on sustainable corporate governance and due diligence, and are working to provide input into the development of these policies.
- Value chains are global, and so EU legislation will likely have wider impacts in the form of requests from business partners as well as on risk management practices.
- European companies will give priority to companies prepared to do due diligence. Once these new rules are implemented, RBC will be a competitive advantage in European markets.
- Three important perspectives from our member companies operating in Europe:
 - The importance of international standards. They enable us to overcome national differences in our discussions. One of the costs for companies operating is the cost of dealing with different legislation in different states. **Harmonisation of international standards in EU is of utmost importance. This will also ensure due diligence is not reduced to mere compliance.**
 - The scope of liability is an important issue. If businesses are *only* concerned with scope of liability, the impact of the law will be minimal. **To promote positive due diligence, accompanying measures in addition to the law, are also important. This includes guidance on due diligence, and incentives for companies to do more.** It is one of the roles of Government to promote and incentivise due diligence.
 - Any new system **must recognise business efforts and practices related to due diligence. Companies will feel lost if they are asked to cover 'everything'**, so detailed instruction on what due diligence is required and advised is needed.

Mr. Daisuke Takahashi, Attorney at Law (Japan), Partner, Shinwa Sohgo Law Offices

- There has been continuous dialogue on the development of the NAP among business, civil society and other key actors. As a result, the stakeholder working group members reached a consensus and published the **"Stakeholder Common Requests" on the NAP**, and proposed key suggestions to the government (see translations of their comments [here](#), [here](#) and [here](#)).
- We have seen a trend in increasing requests from investors and civil society on due diligence, heightening expectations on companies. As described in the "Stakeholder Common Requests"

document, we now **need concrete governmental measures to promote and assist businesses in conducting due diligence for RBC**. The environmental guidelines on due diligence is one example of this support. But, we need a broader scope in the assistance that is provided.

- We need **guidelines on human rights due diligence, consultation schemes for SMEs, incentives for due diligence such as public procurement as well as a framework for information disclosure**. These are important measures for the government to take in the NAP implementation process.
- The TSD chapter of the EPA between Japan and EU can provide a platform for Japanese government, business, and other stakeholders to **share examples of best practices to promote RBC** with EU counterparts.
- The Business and Human Rights Lawyers Network Japan and Global Compact Network Japan initiated a voluntary multi-stakeholder group with businesses, lawyers, researchers and civil society, who developed Engagement and Remedy Guidelines for the Promotion of Responsible Business Conduct and Responsible Supply Chains. However, **single companies cannot address the issue of remedy alone. We need greater collaboration and to work with the NCP, civil society and international organisations** to progress this issue.

Government Intervener Reflections

- **Ms. Minako Kono, National Contact Point (NCP), Deputy Director, OECD Division, the Ministry of Foreign Affairs**, welcomed and thanked participants and set out the role of the National Contact Point in Japan, which is comprised of the Ministry of Foreign Affairs, the Ministry of Health, Labour and Welfare and the Ministry of Economy, Trade and Industry.
- **Mr. Mikito Tomiyama, Director, Human Rights and Humanitarian Affairs Division, the Ministry of Foreign Affairs** outlined how the NAP demonstrates the political will of the Government to promote respect for human rights in the context of business activities. Previously, individual ministries took specific and individual initiatives, whereas the NAP aims at ensuring coherence across various relevant ministries. **The NAP specifies which ministries are responsible for each measure. In regard to access to remedy, the NAP also includes publicizing activities and improving operations of the Japanese NCP.**
 - The NAP will help us promote human rights as well as contribute to achieving the SDGs. This will lead to enhancement of corporate value and competitiveness.
 - The NAP sets out expectations for businesses, rather than mandatory human rights due diligence. In this regard, it is important to raise awareness of the importance of RBC.
 - We will endeavour to follow up on implementation of the NAP, with engagement of a wide range of stakeholders, including businesses, civil society organizations and international organisations.
- **Mr. Masakuni Hirashima, NCP, Deputy Assistant Minister for International Policy Planning, Minister's Secretariat, Ministry of Health, Labour and Welfare**, stated that the Ministry is actively promoting RBC and is supporting a range of different projects focusing on improving respect for labour rights across Asia. The Ministry has contributed approximately \$7 million to seven different projects in this regard. This includes a project on the electronics sector in Vietnam for instance, as well as a programme to eradicate child labour across the region. Socially responsible labour practices lead to win-win outcomes for businesses as well as workers. In the wake of the COVID-19 pandemic, the importance of CSR has been increasingly recognised.
- **Ms. Naomi Sugo, Deputy Director Environment and Economy Division, Minister's Secretariat, Ministry of the Environment**, stated that the Ministry of Environment has issued guidelines on environmental due diligence, highlighting the importance of supply chain due diligence. Due diligence practices in this field have not yet fully matured. The guidelines do not serve as a

procedural manual, but should deepen understanding of environmental due diligence processes. This was developed through multi-stakeholder collaboration, and reflects OECD standards on due diligence. The Ministry of Environment has also conducted a survey on corporate practices on environmental due diligence, and hopes to be able to share the results in February 2021.

- **Mr. Asano Yoshito, Deputy Director, Europe Division, Ministry of Economy, Trade and Industry,** stated that due to the increasingly globalised nature of the economy, it is important to build mutual understanding and cooperation. With this in mind, METI, together with the European Commission's DG Growth established a CSR Working Group for Industrial Policy dialogue in 2013 to discuss these issues. METI also supported the Task Force on Climate-related Financial Disclosures (TCFD) summit which was held in October 2020 and brought together business leaders from around the world. Over 300 organisations in Japan have endorsed the recommendations of the TCFD – the largest number in any country. METI, together with the European Commission and OECD will continue to support RBC initiatives and encourage sustainable enhancement of corporate value.

Ms. Madelaine Tuininga, Head of Unit, Multilateral Trade and Sustainable Development Policy, Green Deal, Conflict Minerals, DG TRADE, European Commission

- The “new normal” will be different from the time before the global pandemic - which has exposed vulnerabilities and the resilience of the global trading system. Effective due diligence and RBC requires continuous and sustained efforts at company level. It requires the support of our joint efforts as policy makers.
- The RSCA programme is an important avenue for this work, and so is our cooperation under the Trade and Sustainable Development committee under the Economic Partnership Agreement.
- The basis for this work are the international due diligence guidelines. Japan and the EU work together in developing and promoting the implementation of due diligence guidelines of the OECD, the ILO and the UN.
- The European Commission is not only looking at introducing a general due diligence law for European companies, but also at complementary sectorial legislation and initiatives addressing problems in specific sectors or type of products. This will include:
 - A legislative proposal and other measures to avoid or minimise the placing of products associated with deforestation or forest degradation on the EU market.
 - A Sustainable Product Initiative that will set sustainability criteria such as reparability, recyclability and durability for products to be placed on EU market.
 - A CSR Code of conduct to improve the sustainability performance of food operators and encourage sustainable, healthy diets and responsible business and marketing conduct.
- Equally important is to ensure the close involvement of all concerned stakeholders. Responsible business conduct should not, and will not, become a government-to-government driven process. It needs to be part of a multi-stakeholder driven process involving not just businesses, but also civil society, international organisations and other non-governmental actors. Their views and close involvement will be needed, not only when developing new tools, but also in the monitoring of the implementation of these tools.
- Further work and exchange of experiences should include issues such as ways of incentivising companies to make sustainability a core part of their business plan, different options to account for possible risks for adverse impacts on human rights or environment throughout company's supply chain.